



building confidence in financial markets

ASIC Annual Report 2003–04



ASIC

Australian Securities &
Investments Commission



ASIC at a glance

The Australian Securities and Investments Commission enforces and regulates company and financial services laws to protect consumers, investors and creditors.

Role and structure

An independent Commonwealth government body set up in 1991 to regulate financial markets, securities, futures and corporations.

Responsible for consumer protection in superannuation, insurance, and deposit taking from 1998, and credit from 2002.

For our statutory aims, and strategies for achieving them, page 6. Delivered through six directorates, page 12.

Worked with other financial and law enforcement agencies in Australia and internationally, page 46.

Outcome we seek

Fair and efficient markets characterised by integrity and transparency, supporting confident and informed participation of investors and consumers. For our aims, plans and outputs, see pages 6, 8 and 10.

Values

Australian Public Service values and code of conduct, page 52.

Staff

1,531 full-time equivalent staff around Australia, page 9.

Finance

\$196 million in costs, funded from budget. \$457 million in fees and charges raised for the Commonwealth, page 10.

Leadership

Three full-time Commissioners appointed by the Governor-General on the nomination of the Treasurer, pages 47 and 50.

building confidence in financial markets

highlights

- 1** A record \$4.2 billion in capital raisings requiring additional disclosure, compensation orders or assets preserved, pages 18 and 25.
- 2** Financial and corporate laws kept credible and respected: 28 jailed, 60 illegal schemes shut down, insolvent trading deterred, pages 15 and 34.
- 3** Higher, more consistent standards promoted in the financial services industry under 3,853 new licences, page 21.
- 4** Business costs reduced and innovative products assisted through 2,007 ASIC approvals, page 4.
- 5** Public use of ASIC services increased: consumer website visits up 37%, database searches up 23%, reports of misconduct up 7%, pages 29, 34 and 35.

in this report

| | | |
|---|---|-----|
| Highlights | | 1 |
| Chairman's report | New Chairman Jeffrey Lucy AM reports | 3 |
| Effectiveness | Achieving the aims set out in our legislation | 6 |
| Strategies | Sustained progress on our 2002-05 strategic plan | 8 |
| Staff | Recruiting and retaining capable and committed people | 9 |
| Finance | Increased services for the outcome approved by Parliament | 10 |
| Organisation | Key reporting lines | 11 |
| Operational summary | Resources, key events and results of our six operational directorates | 12 |
| Enforcement | Criminals jailed, civil actions, bannings and disciplinary actions | 14 |
| Financial services regulation | Financial services reform, licensing and compliance, fee disclosure and legal issues | 20 |
| Markets regulation and policy | Market supervision, disclosure and financial statements, fundraising, CLERP 9 | 24 |
| Consumer protection and international relations | Compliance for consumers, consumer education, offshore scams, international co-operation | 28 |
| Public and commercial services | Protecting creditors, assisting complainants and company information | 33 |
| Infrastructure and staffing | Staff, financial and business management, information technology | 37 |
| The regulatory picture | Company and financial regulation: who's involved, who it protects and how it's carried out | 44 |
| Commissioners | Qualifications, terms of office and experience | 47 |
| Governance | How ASIC is run | 50 |
| Managing risk | Ethical standards, security and audit | 52 |
| Community and regional involvement | Consulting consumers, business and regional representation | 54 |
| Audit | Audit Committee and audit services | 56 |
| Appendices | Publications, disability strategy, freedom of information, Electoral Act disclosure, cost comparisons | 57 |
| Six year summary | Data on business, ASIC performance and finance | 60 |
| Financial statements | Audited financial performance, financial position, cash flows and notes | 61 |
| Index | | 120 |

About this report

This report was produced under the *Commonwealth Authorities and Companies Act 1997*. The members of the Commission are responsible under section 9 of that Act for the preparation and content of the report of operations in accordance with the Finance Minister's orders.

To meet our high standards of disclosure, we used feedback from Parliamentarians and the public. Last year's report won ASIC's fifth consecutive Gold Award from the Australasian Reporting Awards Inc.

chairman's report



Jeffrey Lucy AM,
ASIC Chairman, see page 47 for
biographical details.



This is my first annual report as ASIC Chairman.

Let me begin by acknowledging the significant contribution of Mr David Knott who resigned as Chairman in December 2003. In farewelling him in Melbourne, the Treasurer said ASIC was 'a top four global regulator'. David Knott added greatly to ASIC's reputation as an effective law enforcement agency and brought about greater consistency and national perspective in decision making.

Building confidence

Confidence in Australian financial markets has allowed our companies to raise capital competitively, and allowed investors and consumers to buy financial products and services at a cost and quality that compares strongly with major overseas markets.

In globally competitive financial markets, ASIC's strong record in enforcement and regulation ensured support and cooperation from the regulators of the largest capital markets. In turn, this helped maintain global investors' confidence in Australia. Through action against poor disclosure alone, we improved the quality of information for investors in capital raisings amounting to \$4.1 billion.

In achieving the aims that Parliament set for ASIC in our legislation, we maintained positive trends on our measures of effectiveness and made sound progress on our 2003–05 strategic plan, see pages 6 and 8.

We contributed to building confidence in three important ways this year:

- enforcing the law
- improving the financial system, and
- contributing to consumer protection and financial literacy.

Enforcing the law

The community tends to judge ASIC by its enforcement record. We continued the high levels of activity and success of previous years.

We had 67 criminals successfully prosecuted, obtained civil orders against 118 companies or people to raise standards in corporations and financial services, and deterred insolvent trading, see pages 14 and 34.

Following the report of the Royal Commission into the collapse of the HIH group of insurance companies, our HIH taskforce continued its painstaking collection of evidence to put before the Director of Public Prosecutions. This year, one person has been convicted and sentenced, five others face criminal charges and further matters are in hand.

Although real estate investing and 'get rich quick' property investment seminars largely fall outside ASIC's jurisdiction, we tested the boundaries including action against misleading claims by property spruiker Mr Henry Kaye. We also shut down 60 illegal investment schemes.

Improving the financial system

We approved more than 2,007 applications for waivers of or modifications to the law that reduced business costs. As a result of ASIC approvals, more than \$45 billion in major corporate restructures and initial public offerings could proceed without additional cost.

ASIC's successful implementation of financial services reforms with the licensing of 3,853 businesses completed the transition to a new system of more consistent and efficient regulation for consumers and investors.

We published guidance on how we will implement law reform aimed at strengthening public confidence in corporate disclosure and audit (CLERP 9). To strengthen collaboration with other organisations, we signed new Memoranda of Understanding with ASX Ltd, the Australian Crime Commission, the Australian Prudential Regulation Authority and the Financial Reporting Council.

Contributing to consumer protection and financial literacy

ASIC undertook projects to encourage higher standards in financial planning and reduce misleading and deceptive conduct affecting consumers. We significantly increased the reach of our consumer education and consumer protection work, see pages 28–31. We published an important research report on disclosure of soft dollar commissions by financial advisers, and contributed to joint Commonwealth-State working parties on the regulation of real estate investment advice and mortgage brokers.

We worked actively to raise consumer financial literacy. Commissioner Berna Collier joined the Government's new financial literacy taskforce, and our staff supported the taskforce secretariat.

Our staff

Credit for the highlights and achievements of the organisation go to our 1,531 staff. On behalf of the Commission, I record my thanks and appreciation for their outstanding efforts this year. I am very pleased to report that ASIC's Director Corporate Finance, Richard Cockburn, was awarded a Public Service Medal.

The Commission is determined to ensure we recruit and retain committed and capable people. In this annual report, a summary of our staffing strategies and results stands on an equal footing with our financial strategies and results, see page 9.

The Commission

Commission membership changed significantly. On the departure of former Chairman David Knott, the Treasurer appointed me Acting Chairman in December 2003, and I was formally appointed Chairman by the Governor-General in May 2004.

Pending our new Deputy Chairman's appointment, Commissioner Berna Collier and I greatly appreciated the support and assistance of Acting Commissioners, Carlos Iglesias (Executive Director, Infrastructure) and Malcolm Rodgers (Executive Director, Markets Regulation and Policy). See also page 49.

In July 2004, Jeremy Cooper was appointed Deputy Chairman for a five year term, and Commissioner Collier's term was extended for four years. I warmly congratulate them both and look forward to their strong contributions to the work of the Commission.

outlook

Our enforcement and regulatory responsibilities will increase as a result of changes to the law affecting corporate disclosure and audit (CLERP 9). International issues will grow significantly; for example, international accounting standards will apply from 2005 and the US Sarbanes-Oxley Act will have an increasing impact on many of our larger companies.

From July 2005, new legislation will allow most superannuation fund members to choose their own fund. We will put extra effort into consumer protection and education and into raising standards in the financial services industry.

My report, and the rest of this annual report (except for the financial statements) constitutes ASIC's report of operations in accordance with a resolution of Commissioners made on 3 August 2004.



Jeffrey Lucy, AM
Chairman



ASIC Commissioners, see page 47.
Chairman Jeffrey Lucy, (standing), Deputy Chairman
Jeremy Cooper, appointed July 2004, (right),
Commissioner Berna Collier, (left).

effectiveness

Achieving the aims set out in our legislation

Measures of effectiveness in meeting our statutory aims

(based on the ASIC Act, see page 46)

| | 2003-04 | 2002-03 | 2001-02 |
|---|-------------------|------------|-----------|
| Upholding the law uniformly, effectively and quickly | | | |
| • Criminals jailed | 28 | 29 | 19 |
| • Civil orders against people or companies | 118 | 151 | 140 |
| • % litigation successful (target 70%) | 93% | 94% | 92% |
| • Additional disclosures achieved through ASIC intervention | 212 | 311 | n/a |
| Promoting confident and informed consumers | | | |
| • \$ millions in capital raisings requiring additional disclosure, compensation orders or assets frozen | \$4,216m | \$506m | \$401m |
| • Public complaints about misconduct finalised | 9,970 | 9,292 | 7,827 |
| • Use of our consumer website FIDO | 1,196,000 | 875,000 | 488,000 |
| • Callers assisted through our Infoline | †108,000 | †142,000 | 161,000 |
| Making company information available quickly and efficiently | | | |
| Total use of our databases (free and paid) | 13,437,000 | 10,997,500 | 9,095,600 |
| Company data lodged on time | 92% | 93% | 93% |
| Improving the performance of the financial system and the entities within it | | | |
| Approvals of commercial transactions or products that reduced costs | 1,916 | 1,360 | n/a |
| Approvals of innovative transactions or innovative financial products | 91 | 90 | ‡204 |
| Australian financial services licences issued | ‡3,227 | 604 | 35 |

† Calls fell because company document lodgement enquiries re-routed, see page 36.

‡ Financial services reform triggered an unusually high number of applications.

Staff, expenses and revenue

| | 2003-04 | 2002-03 | 2001-02 |
|--|---------------|---------|---------|
| Staff (full-time equivalents) increased for enforcement and financial services reform | 1,531 | 1,396 | 1,284 |
| Annual change | 10% | 9% | 5% |
| Operating expenses rose to pay for extra workload | | | |
| \$ millions | \$196m | \$173m | \$160m |
| Annual change | 13% | 8% | 12% |
| Fees and charges raised for the Commonwealth up | | | |
| \$ millions | \$457m | \$405m | \$379m |
| Annual change | 13% | 7% | 4% |

strategies

Sustained progress on six key goals in our 2002–05 strategic plan

Direction and context

Results in 2003-04

Fight fraud and misconduct

The public rates enforcement as our highest priority.

This year, ASIC:

- succeeded in 93% of litigation, page 6
- maintained high levels of enforcement activity, pages 14, 34 and 35
- shut down 60 illegal investment schemes, involving about 5,000 investors and \$110 million, page 15
- increased publication and distribution of warnings, page 30

Raise standards in financial services and further build our expertise

Parliament has given us a major task to implement its financial services reforms smoothly.

This year, ASIC:

- successfully completed the transition to new licensing and conduct requirements for the whole financial services industry, page 21
- released model fee disclosure guidelines for investment products, a report on soft dollar commissions, pages 22 and 30
- inspected market operators and clearing houses and reported to the Minister, page 26

Make a greater impact in the boardroom and improve the financial system.

The market needs effective disclosure but some company boards and company auditors have not delivered.

This year, ASIC:

- was given power to fine companies for breaches of market disclosure rules, pages 15 and 27
- reviewed financial reports of 459 listed companies, page 26
- acted to reduce insolvent trading, page 34
- issued guidance for auditors and directors on higher standards to be imposed by law, page 27
- acted against 429 companies for failing to lodge financial reports, page 36

Detect and act on early warning signs

We have responded well to events but in the past some important issues have jumped out unexpectedly.

This year, ASIC:

- established a strategic analysis unit to research and analyse emerging issues and risks for markets and consumers
- set national regulatory priorities for 2004–05 based on risk analysis
- established new cross-disciplinary projects to mitigate key risks identified

Maintain optimal funding, relevance and efficiency

Our responsibilities and workload have increased significantly over the past few years.

This year, ASIC:

- secured an additional \$13.5 million for 2004–05 operations, auditor surveillance, page 10
- achieved government targets for reduced energy use, page 41
- cut cost of office services by 4.5%, and maintained efficient use of accommodation, page 41

Strengthen the skills of our staff

Our increased workload and responsibilities mean we must strengthen the skills within the organisation.

This year, ASIC:

- increased staff 10% to meet higher demand for services, page 9
- redressed staff remuneration to move closer to other Treasury portfolio agencies, page 9
- maintained strong commitment to staff development, page 9

staff

Strategies implemented to recruit and retain capable and committed people

Credit for ASIC's achievements goes to our 1,531 staff. Many people work for ASIC because they believe in what we do, and we value this commitment.

We have implemented strategies to recruit and retain capable and committed people, taking into account the strong competition for staff that we face from private sector financial and professional services businesses.

More staff to meet demanding workload

Staff increased 10% to 1,531 full-time equivalents to meet additional demand for our services, including enforcement (especially the HIH taskforce) and financial services regulation. We also recruited 22 new graduates who will participate in a 12-month rotation through the agency.

Redressing staff remuneration

Competitive remuneration of our staff is an ongoing challenge. In June 2004, the Commission offered all staff a one-off 4% salary increase in order to move towards parity with salary levels paid to staff in other agencies within the Treasury portfolio. The Commission was concerned that for some time ASIC salary levels had fallen behind other comparable agencies, adversely affecting our ability to attract and retain staff.

Funding for staff development

To build and renew our staff skills, we spent around \$1.4 million on staff development. On a dollar per head basis, this was a higher amount than average for the public service, reflecting the demands of our market-driven and changing regulatory responsibilities.

We have established processes to identify the skills, knowledge and abilities required for each job and to assess each staff member's development needs against those requirements. We created a national set of development programs, supported by 21 graduate recruitments, mid-level specialist and management training and 26 staff participants in the 2004 ASIC Summer School.

A safe workplace

We maintained a strong emphasis on safety at work and on actively managing situations where staff suffered work-related injury or illness. Injuries and claims decreased, thanks to ongoing strategies to manage the prevention of injuries in the workplace, see page 38.

A diverse, balanced team

ASIC has achieved a better balance of men and women and people of different backgrounds than in many parts of the corporate or financial services industry.

We strengthened procedures to ensure all staff appointments are made fairly on merit. We also conducted mandatory training for all staff to:

- raise awareness about and reinforce the importance of the public service values and code of conduct
- reinforce respect for the variety of backgrounds, experiences and perspectives of staff at work.

Outlook

ASIC is a demanding workplace. In the coming year, we will develop strategies to:

- encourage flexible work arrangements so we retain the right mix of experience and skills to operate effectively, for example by reviewing part-time work and looking at the impact on ASIC of an ageing workforce
- help staff achieve a reasonable work-life balance.

More information on staffing on page 37.

Increased outputs to achieve the outcome approved by Parliament

Parliament appropriated funds for ASIC in order to achieve the outcome of 'a fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers'.

To do this, we delivered four outputs (or services) set out below.

| Output* | This year | Last year | Change |
|---|-----------------|-----------|--------|
| 1. Policy and guidance about laws administered by ASIC, pages 20 and 24 | \$10.9m | \$9.7 m | 12.4% |
| 2. Comprehensive and accurate information on companies and corporate activity, page 33 | \$45.4m | \$46.1m | -1.5% |
| 3. Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity, pages 20, 24 and 28 | \$56.0m | \$47.7m | 17.4% |
| 4. Enforcement activity to give effect to the laws administered by ASIC, page 14 | \$83.9m | \$69.0m | 21.6% |
| Total | \$196.2m | \$172.6m | 13.7% |

*Infrastructure costs are apportioned to these outputs

Our increased costs of \$23.6 million were largely to implement:

- the Financial Services Reform Act
- the dedicated taskforce on matters referred by the HIH Royal Commission
- activities targeting insolvent trading by companies and company officers
- corporate law reform.

Additional funding was also provided to the Superannuation Complaints Tribunal to cover greater demand for its services.

Some \$11.8 million of our appropriation was levied by the government on deposit taking, superannuation, retirement savings and insurance organisations. See page 59 for a breakdown on how the levy was used for activities relating to the products and services these organisations offer, and for the Superannuation Complaints Tribunal.

We incurred an operating deficit of \$4.8 million. Employee expenses, our largest outlay, increased 20% for more staff to meet our additional responsibilities.

Suppliers expenses, excluding property costs, increased to \$62.8 million. Property expenses of \$3.2 million increased by only \$0.6 million, a cost kept under control by accommodating additional staff within existing premises.

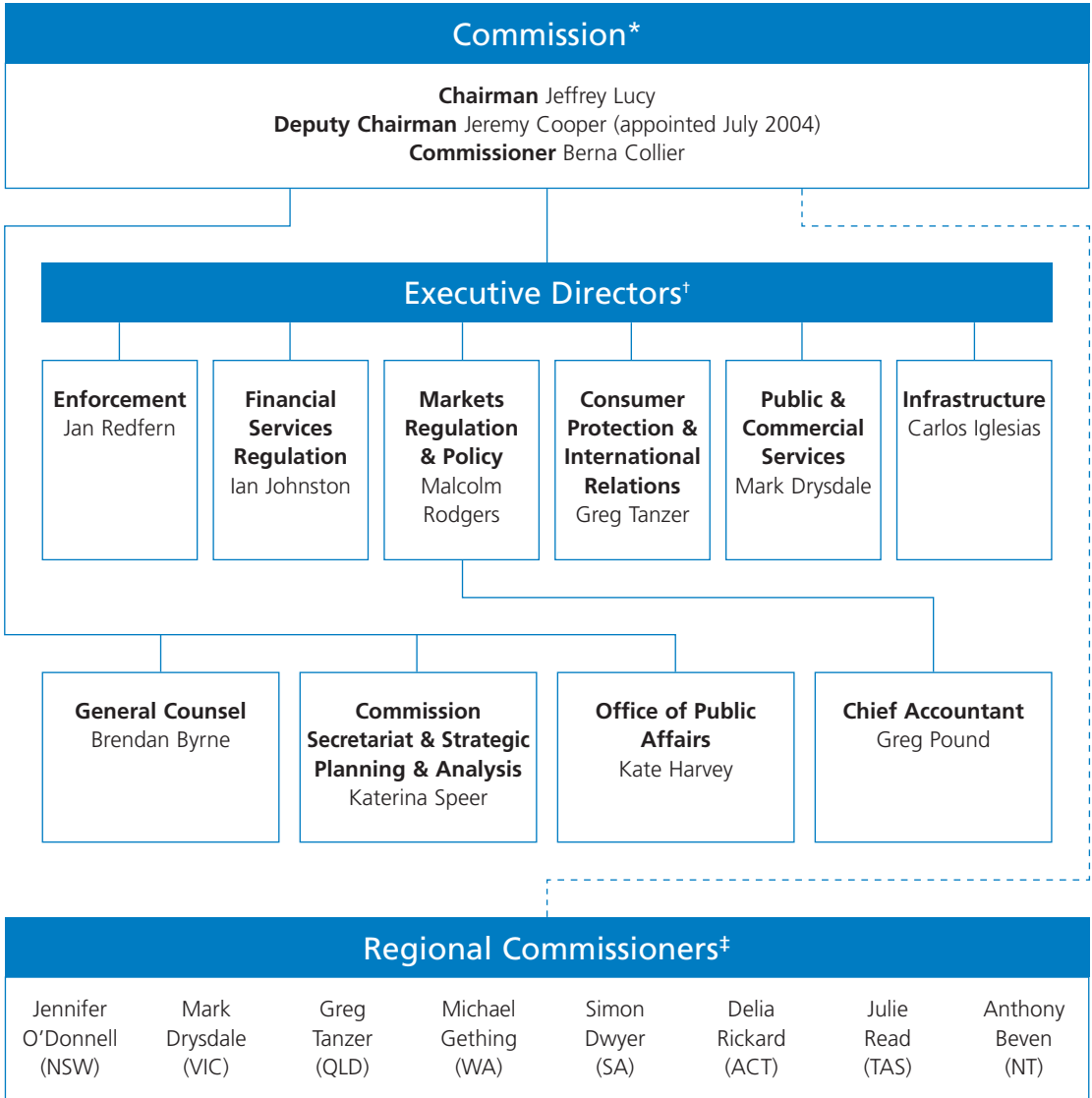
We received \$8.1 million in revenue from sale of services, interest and other sources, including \$1.9 million in recoveries for court and investigation costs. We also raised \$456.6 million for the Commonwealth in fees and charges.

Outlook

In 2004–05 we will receive an additional appropriation of \$13.5 million: \$11.7 million to sustain ASIC's operations and \$1.8 million for auditor surveillance as part of CLERP 9. We will also receive an equity injection of \$11.3 million to place ASIC's balance sheet in a positive equity position.

Our Financial Statements begin on page 61.

organisation



* Commissioners' biographies, see page 47.

† Executive Directors' details, see relevant directorate chapters.

‡ Regional Commissioners' details, see page 55.

operational summary

| Directorate | Enforcement | Financial services regulation | Markets regulation and policy |
|------------------------------|---|---|---|
| Staff | 385 staff | 219 staff | 124 staff |
| Role | Investigate and act against misconduct | Regulate financial services and financial products | Regulate markets, corporate finance and disclosure; develop policy |
| Key events | First conviction of HIH executive arising from HIH Royal Commission | Successful transition to financial services reform in March | Parliament enacted stricter rules for company directors and auditors |
| Results | <p>28 people jailed, banned 22 directors and 42 people from financial services</p> <p>1 sentenced, 5 people charged with criminal matters over HIH. Others in progress</p> <p>60 illegal investment schemes shut down, involving \$110 million.</p> | <p>Issued 3,227 financial services licences</p> <p>Checked new licensees, superannuation complaints handling, and adviser remuneration</p> <p>Published model for presenting fees in investment offer documents</p> | <p>A record \$4 billion in capital raisings requiring additional disclosure</p> <p>Inspected market operators and clearing houses and reported to the Minister</p> <p>Guided industry on financial services, corporate audit and disclosure</p> |
| Targets for next year | <p>Progress on matters referred by the HIH Royal Commission</p> <p>Act against fraud and misconduct, including that affecting consumers</p> <p>Promote public awareness about current scams and fraud</p> | <p>Increase compliance and supervision of the industry</p> <p>Lift standards of compliance by offering input and guidance</p> <p>Target risk areas, including illegal early access to superannuation</p> | <p>Implement new disclosure and audit laws</p> <p>Increase scrutiny of off-market trading affecting retail investors</p> <p>Complete outstanding policy work on financial services reform</p> |

Consumer protection and international relations*

Public and commercial services

Infrastructure

| | | |
|--|---|---|
| 33 staff | 408 staff | 297 staff‡ |
| Act on consumer and international issues | Company data, corporate insolvency, complaints and inquiries | IT and knowledge management, HR, finance, management services |
| Released superannuation calculator and report on soft dollar commissions | Corporate law reforms abolished company annual returns | Federal Budget allocated \$13.5 million in additional funding for 2004–05 |
| Acted on consumer complaints about mortgage brokers | Visited 649 companies to ensure they avoided insolvent trading | Increased staff numbers by 10% to meet rising public demand |
| Visits to our consumer website up 37%, consumer publications up 250% | Public use of our databases jumped 28% to 13.4 million searches | Reduced internal service costs across all sites by 4.5% |
| Helped collect evidence used by Thai authorities to convict seven cold callers | 9,970 public complaints about misconduct, up 7%. Resolved or acted on 83% | Reduced energy use, maintained efficient use of office space |
| Focus on retirement incomes, and misleading and deceptive advertising | Maintain operations to deter insolvent trading | Retain and recruit capable and committed staff |
| Lift education activities, including for vulnerable consumers | Boost summary prosecution action taken about public complaints | Accelerate IT reform program and extend information sharing |
| Manage more international issues affecting our domestic activities | Extend our electronic interfaces to Australia's corporate database | Increase internal efficiencies and accountability for costs |

* The work of this directorate received substantial support from other directorates.

† Full-time equivalents, not including 32 staff supporting the Commission and General Counsel, and 33 staff supporting the Superannuation Complaints Tribunal and other statutory bodies.

‡ Includes 21 full-time graduates working for other directorates.

enforcement



Jan Redfern (centre), Executive Director, a lawyer with extensive public and private sector experience appointed 2003, previously Deputy Executive Director, with Deputy Executive Directors Allen Turton, (left) and Mark Steward (right).

Overview

385 enforcement staff investigated suspected breaches of the law:

- had 28 criminals jailed for more than 90 years as part of 67 people convicted from briefs prosecuted by the Commonwealth Director of Public Prosecutions
- commenced 51 civil proceedings, resulting in orders against 118 people or companies, \$101 million in recoveries, compensation and fines and \$11 million frozen
- banned or obtained undertakings removing 22 people from directing companies, and 42 people from offering financial services
- disciplined 13 company auditors and liquidators for misconduct.

In this section:

- criminal matters
- civil action and compensation
- banning and disciplinary proceedings
- outlook

key results

| Issue | Result |
|--|--|
| Directors duties | Jailed 15 directors and officers. Chairman of Harris Scarfe Ltd charged. Civil penalties in Waterwheel insolvent trading case upheld. Successful civil penalty actions against 3 former directors of Clifford Corporation. |
| 'Get rich quick' schemes and illegal fundraising | Action against property spruiker Henry Kaye and other 'get rich quick' schemes, with 60 illegal investment schemes shut down, involving about 5,000 investors and \$110 million. |
| HIH Insurance* | One HIH officer sentenced, 5 others charged, involving 17 charges. Compensation of \$27 million to FAI creditors, and 4 General Cologne Re company officers sanctioned.* |
| Continuous disclosure | Southcorp Ltd paid \$100,000 penalty for breach of the continuous disclosure provisions. Announced procedures for new administrative fines for lesser breaches. |
| Superannuation | Jailed 4 superannuation fraudsters, and acted against 10 illegal early access to superannuation schemes involving \$18 million. |

* Results for 2003–04 only, not including previous action against Rodney Adler, Ray Williams and Dominic Fodera.

| Main activities | This year | Last year | % change |
|---|-----------|-----------|----------|
| Litigation concluded | 220 | 222 | steady |
| Investigations commenced | 347 | 342 | steady |
| Investigations completed within 12 months | 265 | 263 | steady |
| % investigations completed within 12 months | 82% | 85% | -3% |

Criminal matters

We had 28 criminals jailed as part of 67 people convicted from briefs prosecuted by the Director of Public Prosecutions (DPP). Staff investigated and obtained evidence for the DPP, who then brought and prosecuted, all indictable matters.

28 criminals jailed

| What they did | Names and details of crime | Sentence |
|---|---|--|
| Investment fraudsters | Andrew John Smith dishonestly obtained over \$190,000 for bank debenture trading and other schemes. | 5 years, with a minimum of 20 months |
| | Terence Eric Loveday operated an unregistered managed investment scheme. | 20 months, with a minimum of 6 months |
| | Colin Roderick McAskill unlawfully induced investors to deal in securities involving a failed ostrich scheme. | 6 months, with a minimum of 2 months |
| Financial services professionals who cheated clients | Hamish Boyd McLachlan diverted trading losses from his own and other accounts to those of RetireInvest clients. | 9 years, with a minimum of 5 years |
| | Mervyn William Mitchell defrauded his clients of superannuation and retirement funds. | 7 years, with a minimum of 4 years |
| | Peter Lyle Sharp improperly used his position at Tietyens Investments Pty Ltd to gain advantage for himself. | 5 years, with a minimum of 3 years |
| | Terrance Robert James improperly gained advantages for himself through the corporate trustee of the Employees Productivity Award Superannuation Fund. | 3 years, with a minimum of 18 months |
| | John Kenneth Shields used his position as a corporate trustee of a superannuation fund to gain an advantage for himself. | 3 years, with a minimum of 12 months |
| | Amber Joy Phelps dishonestly misused \$80,000 belonging to clients. | 3 years, with a minimum of 6 months |
| | Harold Frederick Moses cheated clients of his superannuation intermediary business of more than \$339,000. | 2 years and 10 months, with a minimum of 15 months |
| | Mervyn Alexander Roach obtained property and financial advantage by deception. | 2 years 6 months, with a minimum of 18 months |
| | Robert Thomas Lister, back office manager of an advisory business, used more than \$415,000 for gambling. | 2 years 6 months, with a minimum of 6 months |
| | Vittorio Anthony Herbert Ziegelaar, former insurance agent, stole insurance premiums. | 2 years, with a minimum of 12 months |

| What they did | Names and details of crime | Sentence |
|---|--|---|
| Dishonest company directors and officers | Lakhmi Gulabrai Daswani, or Lux Daswani, for fraud in connection with a \$30 million corporate collapse. | 12 years with a minimum of 4 years 3 months |
| | Robert Gary Johnstone of Financial Options Group Incorporated made false statements to investors. More than 35 investors lost over \$10 million. | 4 years, with a minimum of 2 years 6 months |
| | Cameron John Watt dishonestly used his position for his own advantage. | 4 years, with a minimum of 2 years and 6 months |
| | Pauline Dorothy Weir for fraud and dishonestly obtaining credit. | 3 years |
| | Mark Anthony Johnstone for fraud. | 3 years, with a minimum of 18 months |
| | Christopher Beresford James used his position to gain an unlawful advantage. | 2 years 6 months, with a minimum of 6 months |
| | Charles James Andronicus managed a company while an undischarged bankrupt and obtained money by deception. | 2 years 6 months, with a minimum of 6 months |
| | William Forge for resolutions to remove cash from Hallmark Gold NL. | 2 years 6 months, with a minimum of 12 months |
| | Karl Suleman, promoter of the Froggy unregistered investments scheme, for fraud. | 21 months, with a minimum of 12 months |
| | Trevor Gregory Smith made improper use of his position to indirectly gain an advantage for himself. | 18 months, with a minimum of 6 months |
| | Kean Henry Flanagan made misleading statements. | 18 months periodic detention |
| | Peter Clark for resolutions to remove cash from Hallmark Gold NL. | 18 months, with a minimum of 9 months |
| | Richard Charles Salisbury lodged false company documents and attempted to deceive over unclaimed money. | 18 months, with a minimum of 6 months |
| Timothy Rhys Hawker Williams for insolvent trading and fraudulent conduct. | 15 months, with a minimum of 6 months | |
| Andrew Geoffrey Thomson made false and misleading statements in a prospectus. | 1 year, with a minimum of 3 months | |

Referrals to the DPP

When we conclude a criminal investigation, the briefs of evidence are referred to the DPP.

Months between resourcing investigation and requesting handover

| Months | 0–3 | 3–6 | 6–9 | 9–12 | 12+ | Total |
|------------------|-----|-----|-----|------|-----|-------|
| Number of briefs | 4 | 10 | 19 | 5 | 10 | 48 |

Briefs concerned 73 potential defendants. The DPP accepted handover of these briefs for prosecution once it decided that the evidence was sufficient to support a conviction and warranted prosecution. In many cases, charges were laid within three months of handover being accepted by the DPP.

Civil action and compensation

ASIC took 51 civil proceedings resulting in orders against 118 people or companies to freeze assets, obtain compensation, wind up illegal schemes and for civil penalties against directors, company officers and others who failed in their duties. We also accepted enforceable undertakings from 44 entities to obtain more wide-ranging remedies, and often on behalf of more people, than can usually be obtained in court proceedings.

Court orders or enforceable undertakings were obtained for recoveries, compensation and fines of \$101 million, and assets worth \$11 million were frozen, for investors and creditors. Major matters are listed below.

| Respondents | Results | Amount |
|---|---|--------------|
| National Australia Financial Management Ltd, National Australia Superannuation Pty Ltd and MLC Nominees Pty Ltd | Compensation for 235,000 investors in 21 superannuation and life insurance products arising from merger of superannuation funds. | \$67 million |
| General Re Australia Ltd | Funds recovered for creditors of FAI General Insurance Company Ltd, arising from matters referred to ASIC by the HIH Royal Commission.. | \$27 million |
| Tower Australia Ltd | Compensation for members of personal superannuation plans whose accounts contained incorrect withdrawal amounts. | \$5 million |

Bannings, fines and disciplinary proceedings

To protect the public, we banned or obtained orders or undertakings that banned 22 people from directing companies, and 42 people from offering financial services. We also disciplined or deregistered 13 company auditors and liquidators for misconduct.

22 company directors and officers banned

Targeted action was taken that banned 3 directors permanently, and 19 for periods exceeding 111 years. In addition, as a result of convictions ASIC obtained this year, a further 68 people were automatically disqualified from managing corporations for 5 years from the date of their conviction or release from prison.

These matters were of particular public or regulatory interest:

| Name | What they did | Period of banning |
|---|---|-------------------|
| Richard Clayton Jackson Sharland (also known as Richard Clayton Jackson Stagg and Clayton Michael Richards) | Promoted an illegal early release of superannuation scheme, involving 61 people and more than \$1 million in superannuation, for a supposed joint venture in the Commonwealth of Dominica. No venture has been found and the funds appear lost. | 20 years |
| David Smith Alan Rich | Mismanaged Lifetrack Management Ltd, a corporate trustee of a pooled superannuation trust. | 10 years |
| Robert John Orehek | Involved in an insolvent fundraising scheme for a Sydney residential property development, that raised about \$10–15 million from investors. | 8 years |

42 banned from financial services

To protect the public, 19 people were banned permanently (including 3 insurance brokers) and another 26 advisers were banned or undertook to stay out of the industry for shorter periods of time. These matters were of particular public or regulatory interest:

| Name | What they did | Period of banning |
|---|---|----------------------------------|
| Robert Andrew Street | Professional adviser obtained financial advantage by deception. ASIC alleges that he transferred money to various foreign countries after receiving a proposal from a person claiming to represent a Nigerian government committee. | Permanently |
| Andrew Skinner, Carl Hanich and Ross Honeyman | Former directors of Commercial Nominees and involved in the Confidens Investment Trust, the members of which lost more than \$2 million. | 3–5 years, subject to conditions |
| Ronald Moore | Professional adviser purchased shares on behalf of 32 clients in overseas companies through an unlicensed Philippines stockbroker, subsequently identified as a boiler room. | 3 years |
| Rene Walter Rivkin | Stockbroker whose medical condition made him not capable of performing his duties. Proceedings to review his licence after his conviction for insider trading have been stayed until his medical condition allows. | 6 months |

Action against company auditors and liquidators

Some 4 auditors and 6 liquidators were disciplined or surrendered registration for misconduct. Another 3 were disciplined for failure to comply with administrative requirements. Matters of interest included:

| Name | What they did | Orders made |
|------------------------|--|--|
| Helena Rule | Auditor convicted of offences involving dishonesty under the Financial Transactions Reporting Act. | Cancelled registration |
| David Lockwood | Melbourne liquidator removed from 111 assignments for being an insolvent under administration. | Court order, subsequently surrendered registration |
| Gregory Stephen Lourey | Former National Textiles auditor failed to properly document the audit evidence that he used to form his opinion that National Textiles was a going concern. | Reprimanded |

outlook

We will face additional responsibilities to enforce stricter laws relating to corporate reporting and disclosure.

We will:

- make further progress in dealing with matters referred by the HIH Royal Commission
- enforce the law against fraud and misconduct, including misleading and deceptive conduct affecting consumers
- promote public awareness about current scams and fraud.

financial services



Ian Johnston (left), Executive Director, appointed 2000, previously served in senior roles within ASIC and the financial services industry, with Deputy Executive Director Pam McAlister.



regulation

Overview

219 financial services regulation staff:

- licensed 3,227 financial services businesses to implement financial services reform
- conducted 509 compliance checks of financial advisers and financial product issuers and obtained significant corrective or enforcement action
- approved 1,176 applications for relief from the law concerning licensing, disclosure, managed investments and related provisions
- achieved additional disclosure in 61 financial product disclosure statements and prospectuses
- registered 524 managed investment schemes and strengthened 65 scheme compliance plans.

In this section

- key results
- financial services reform
- compliance and supervision
- policy and technical work
- outlook

key results

| Issue | Result |
|--|---|
| Implementing financial services reform | Achieved a successful transition, with 3,227 licences issued and more than 25,000 inquiries answered. |
| Raising industry standards | Checked new licensees, improved superannuation complaints handling and reviewed adviser remuneration and fund manager investment practices. |
| Fees and charges | Issued guidelines to simplify presentation of fees and charges in investment offer documents. |

| Main activities | This year | Last year | % change |
|---|--------------|-----------|----------|
| Australian financial services licences issued* | 3,227 | 604 | 530% |
| Compliance reviews | 509 | 803 | -37% |
| Corrective disclosure achieved in prospectuses and product disclosure statements† | 61 | 139 | -66% |
| Compliance plans of responsible entities upgraded after ASIC intervention | 65 | n/a | n/a |
| Managed investment schemes registered | 524 | 497 | 5% |
| Commercial relief applications approved | 1,176 | 514 | 229% |

* Final year of transition for entire industry.

† From 11 March no further prospectuses issued for managed funds.

Successful transition to financial services reform

By March, the whole financial services industry had successfully changed over to the new regulatory system under the Financial Services Reform Act. ASIC estimates that general insurance, financial advice and managed funds make up about 60% of the industry. NSW and Victoria alone have more than 70% of licensees. See pie charts on page 23.

Staff issued 3,227 Australian financial services (AFS) licences, making a total of 3,853 licensed businesses. Staff consulted with industry, answered more than 25,000 inquiries, gave more than 200 presentations, considered more than 1,000 applications for relief from the law and issued some 80 class orders that enabled the new system to apply appropriately and sensibly.

Checking new licensees

We also conducted 284 checks on AFS licensees, to verify compliance with the new law. These checks resulted in 128 changes to procedures and 24 referrals for further action. Problems included inadequate compliance procedures, risk management plans, dispute resolution procedures and inadequate professional indemnity insurance.

Staff conducted 509 general compliance checks, fewer than last year so we could give priority to licensing. Compliance checks will be increased next year. No insolvencies of insurance intermediaries came to ASIC's notice.

'Australian financial products and services compare strongly with major overseas markets.'

Superannuation complaints handling

All superannuation trustees must disclose how they handle complaints. Staff examined compliance, and compared inquiry and complaints handling practices against industry 'best practice' standards. Overall, trustees fell short in meeting mandatory requirements, although all trustees did have some process for considering and dealing with complaints. We recommended various improvements to documentation about handling inquiries and complaints.

Preferential remuneration for advisers

Major financial institutions, who own much of the financial planning industry, pay preferential remuneration to advisers if they recommend in-house products.

We reviewed the disclosure practices of 8 institutions, whose financial planning groups sold products to consumers. We found that financial advisers did not always disclose adequate information about preferential remuneration, about commissions paid, or how this may have affected the advice given. Following this review, several institutions have reviewed their remuneration practices.

Fund manager investment practices

Late trading and market timing issues arising in the USA prompted an investigation into Australian practices. We examined a large portion of the industry to establish what practices existed and tested industry responses by visiting a selection of companies. The information we collected indicated that abusive practices found in the USA were not evident in the Australian funds management industry.

Good practice in disclosing fees

Consumers require clear, effective and concise information about fees for investment products. ASIC published a revised model for good practice that requires:

- all fees to be stated in dollars or translated into dollar terms
- a single table identifying all direct and indirect fees and costs
- simpler and more consistent terminology.

ASIC will test this model with consumers.

To help reduce the length and complexity of disclosure documents, we issued a release on 'clear, concise and effective' disclosure, and granted relief on statements of additional advice.

Real estate investment advice

Real estate is primarily regulated under State, not Commonwealth, laws. This limits the action ASIC can take against real estate property spruikers and seminar providers. However, based on information obtained in 2003 about selected 'wealth creation' seminars, we were able to take enforcement action against some property investment seminar providers.

Financial product offer documents

We obtained corrective disclosure in 11 matters involving managed funds prospectuses and in 50 matters involving product disclosure statements. Corrective disclosure resulted in supplementary and replacement offer documents or a final stop order preventing the offer from being made.

Policy and technical work

Significant policy initiatives included:

- insurance: regulation of mutual risk providers
- financial advice: approval of excesses on professional indemnity insurance, pending release of FSR compensation arrangements
- managed funds: differential fees, rights offerings, and protection of land underlying primary production schemes
- law reform proposals: managed investments and financial services reform.

ASIC made no instruments under Part 29 of the Superannuation Industry Supervision Act or Part 15 of the Retirement Savings Accounts Act.

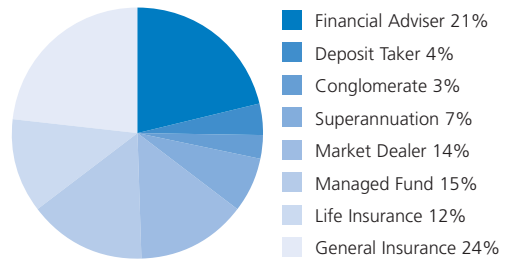
outlook

The next two years represent a real opportunity to shape the conduct of the financial services sector.

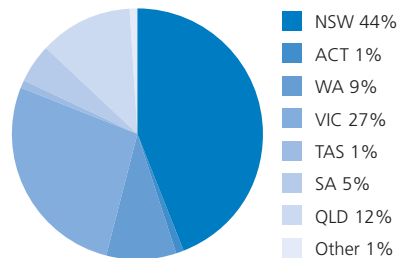
We will:

- increase resources devoted to compliance and supervision of the industry
- lift standards of compliance across the industry by offering input and guidance
- target areas of particular risk, including schemes promoting illegal early access to superannuation, small and medium managed investment schemes, and product disclosure statements.

Industry distribution of AFS Licence holders 30 June 2004



State distribution of AFS Licence holders 30 June 2004



markets regulation



Malcolm Rodgers (right), Executive Director, a lawyer with extensive regulatory experience appointed 2001, previously ASIC Director Regulatory Policy, with Deputy Executive Director Jennifer O'Donnell.



and policy

Overview

124 staff in markets, corporate finance, the Office of Chief Accountant and policy:

- regulated company fundraising, restructures, financial reporting and market disclosure, required additional disclosure for more than \$4 billion in capital raisings and assisted in corporate transactions valued at \$45 billion
- regulated Australia's 8 licensed financial markets and 4 clearing and settlement facilities
- issued 32 guidance documents to regulate or guide industry and professionals, including guidance about new laws on audit and company disclosure.

In this section

- key results
- corporate finance
- markets supervision
- policy development
- outlook

key results

| Issue | Result |
|----------------------|--|
| Prospectuses | Record \$4.1 billion in capital raisings requiring additional disclosure. |
| Market supervision | Inspected 5 licensed markets and 3 clearing houses and reported to the Minister. |
| Guidance to industry | Issued policy and guidance about new laws on audit and corporate disclosure (CLERP 9). |

| Main activities | This year | Last year | % change |
|--|-----------|-----------|----------|
| Additional disclosures to the market obtained | 95 | 51 | 86% |
| Corrective disclosure achieved in prospectuses | 56 | 121 | -54% |
| Authorised financial markets regulated | 8 | 5 | 60% |
| Equity prospectuses lodged | 1081 | 888 | 22% |
| Takeovers received | 67 | 55 | 22% |
| Schemes of arrangement | 53 | 45 | 18% |
| Commercial relief applications approved | 831 | 936 | -11% |
| Policies and guidance documents issued | 32 | *30 | 7% |

*Restated to include comparable documents

Record \$4.1 billion in funds affected

ASIC acted against prospectuses that fell short of required standards of disclosure, affecting more than \$4.1 billion in capital raisings.

We targeted offerings with the greatest potential impact on retail investors. Of this all-time record, \$1.8 billion was for debenture prospectuses, where ASIC paid special attention to the quality of disclosure involving higher-yield, higher-risk fundraising. Debenture offers targeted many investors looking for more secure returns, usually associated with fixed interest investments. To assist investors and issuers, we issued public statements about common defects in some offer documents.

Initial public offerings increased this year. Of \$2.3 billion in these capital raisings where ASIC required additional disclosure, the largest matter was the \$1.3 billion Zinifex Ltd float.

Of 1,081 prospectuses lodged for company securities, we obtained additional disclosure in 56 cases, through stop orders or through obtaining additional disclosure during the 'exposure period' (the time between the issue of a prospectus and when securities may be allotted).

'Confidence in Australian financial markets has allowed our companies to raise capital competitively.'

\$45 billion in corporate transactions assisted

Major corporate restructures and initial public offerings involving an estimated \$45 billion could not have proceeded without ASIC assistance. Complex corporate restructures affected AMP, Westfield, Challenger and Australand. Public floats included Pacific Brands, Virgin Blue and Just Group.

Where adequate safeguards otherwise existed to protect investors' interests, ASIC granted relief from the strict requirements of the law.

There were 67 takeovers, reflecting increased activity from last year.

Company financial reports reviewed

Listed companies were also checked to see if they had properly reported on options for directors and company officers. Out of 1,298 companies reviewed, 27 made further announcements or lodged amended directors' reports to disclose information about options.

Staff reviewed the financial statements of 459 companies to check compliance with accounting standards on issues of potential risk, finding a high overall level of compliance. A number of companies including Stockland Group, China West, Childcare Centres, Kaz, OPSM, Tempo and Newhaven made corrections through disclosure to the market, and re-lodged their financial statements or adjusted them in a subsequent financial report.

One company changed its accounting treatment of defined benefit superannuation entitlements following ASIC inquiries.

Conflict of interests monitored

We reviewed documents issued to shareholders where the directors may have had a conflict of interest, and required corrective disclosure. ASIC also found that related party documents commonly fail to place a value on options being issued to directors and other related parties.

Markets regulation

Market operators and clearing and settlement facilities were required to transfer across to new licences and authorisations under financial services reform legislation. ASIC gave recommendations to the Minister about applicants, who were subsequently licensed before the March 2004 deadline.

Four new markets were licensed to operate in Australia: the Chicago Mercantile Exchange, Eurex, Intercapital (a market for forward [interest] rate agreements) and Yieldbroker (a market in bonds). We published a new policy about approval of overseas market operators and facilitated the entry of the three international markets into Australia.

On our recommendation, the Minister issued a low-volume markets exemption to facilitate buying and selling of holdings in unlisted entities, subject to a range of conditions.

Markets assessed

As required by law, we inspected and reported to the Minister on supervisory arrangements, including arrangements for handling conflicts of interest, for the licensed markets and licensed clearing and settlement facilities. We completed our second round of assessments of market licensees, and further improved our processes.

Based on those assessments, we found that Australia's major exchanges did have appropriate supervision structures and procedures in place. There can be a high degree of confidence in their ability to operate their markets in a fair, orderly and transparent manner.

ASX share trading and compliance

ASX shares trade on its own market. To avoid conflicts of interest, ASIC directly monitored daily trading and compliance by ASX with its listing rules in much the same way as ASX oversees other listed entities.

Guidance on financial services reform

Our financial services reform policy work supported a smooth transition to the new regulatory regime. This included:

- assisting Treasury on the development of further amendments to the financial services regime (including additional regulations)
- finalising policy on foreign market operators, foreign financial service providers and managed discretionary accounts
- refining existing policy and assisting staff with internal technical advice.

Audit and corporate disclosure reforms (CLERP 9)

Under the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004*, commonly called 'CLERP 9', ASIC will be responsible for administering tighter controls and standards on audit and company disclosure. We will administer new rules affecting the auditing profession, and will monitor tighter rules about compliance with accounting standards and disclosure of corporate information to the market.

ASIC's Chief Accountant contributed to the strengthening of financial reporting standards through his participation in the Financial Reporting Council and specialist advice on complex accounting issues.

We issued policies and policy proposals about implementing the CLERP 9 legislation. These publications broadly dealt with:

- audit registration and conduct requirements
- amendments to the securities and financial product disclosure regimes, and
- the obligation of financial service licensees to manage conflicts of interest.

The Act also gives ASIC a limited power to fine companies for breaches of continuous disclosure rules. We issued guidance on how we intend to use this power.

outlook

We will be administering new legislation designed to raise standards and increase investor confidence in companies and markets.

We will:

- implement new powers to enforce continuous disclosure, regulate auditors, refer financial reporting problems to a new Panel and introduce international financial reporting standards
- increase scrutiny of over-the-counter and off-market trading, particularly where there is material retail participation, and
- complete outstanding policy work on financial services reform.

consumer protection and



Greg Tanzer (left), Executive Director, also Queensland Regional Commissioner, appointed 2004, previously Executive Director, International Relations and Regional Coordination; with Deputy Executive Director Delia Rickard.

international relations

Overview

33 consumer protection and international relations staff:

- identified compliance issues affecting consumers and worked with enforcement and regulatory staff
- carried out consumer policy and education projects
- managed 572 international requests for assistance and led ASIC's contribution to international regulation
- managed 1,166 applications concerning property of deregistered companies
- coordinated ASIC's 8 regional offices to maintain service levels.

In this section

- key results
- compliance
- education and communication
- international relations
- outlook

key results

| Issue | Result |
|---|--|
| Mortgage brokers | Acted against misleading claims, approved more effective complaints handling, supported stronger regulation. |
| Soft dollar benefits for financial planners | Researched industry practice, and required better disclosure to consumers. |
| Consumer education | 1.2 million visits to our consumer website FIDO, up 37%. Distributed 684,000 consumer publications, up 153%. |
| Thai-based cold callers convicted | 7 defendants convicted by Thai courts. ASIC helped Thai authorities collect evidence. |

| Main activities | This year | Last year | % change |
|---|------------------|-----------|----------|
| Consumer publications distributed | 684,000 | 270,000 | 153% |
| Visits to our consumer website FIDO | 1,196,000 | 875,000 | 37% |
| ASIC requested overseas assistance | 206 | 102 | 102% |
| Other regulators requested our assistance | 366 | 231 | 58% |
| Visits to ASIC from foreign regulators | 60 | 46 | 30% |

Action on mortgage brokers

Using our powers against misleading and deceptive conduct, we stopped misleading advertising claims made by Mortgage Choice (one of the largest mortgage brokers) and Fintrack that they were independent and impartial. We also acted against Express Loans' advertising and sales practices. The company had prepared deposit bond applications overstating the loan amount for which clients had received approval.

We also negotiated a more effective system for handling consumer complaints. To gain ASIC approval, the Credit Ombudsman (previously the Mortgage Industry Ombudsman Scheme) significantly increased its independence and accessibility. It now covers all credit products and services, not just residential mortgages, and non-credit products provided as part of a loan package.

Future regulation of mortgage brokers

Mortgage brokers that sell and advise about loans and mortgages do not require an ASIC licence, and so fall primarily under State, not Commonwealth, law. ASIC contributed to a State and Commonwealth working party on possible future regulation of the industry.

Real estate investing

The State, Territory and Commonwealth governments have been considering how to improve the regulation of property investments and ASIC actively participated in the working group.

'We significantly increased the reach of our consumer education and consumer protection work.'

Soft dollar benefits in financial planning

ASIC published a report on soft dollar benefits in the financial planning industry. (These are benefits other than standard commission payments.) The report revealed a wide range of soft dollar benefits, potentially worth millions of dollars each year to the larger firms.

Because these benefits can influence advice, advisers must clearly disclose them. A number of firms did clearly explain soft dollar benefits in consumer-friendly language. Other firms left their clients in the dark, with disclosure that was vague or, in extreme cases, non-existent. ASIC has asked affected firms to review their documents and make the necessary changes. (In July 2004, industry bodies announced a new code of conduct on this issue.)

Increased consumer education

Visits to FIDO, ASIC's consumer website, increased 37% to 1.2 million. Through FIDO, we launched one of Australia's most powerful consumer superannuation calculators. We also issued public warnings on current financial scams, illegal investment offers and risks in low-deposit loans and higher yielding debentures.

We distributed 684,000 consumer publications, up 153%, including: *Moola Talk* for indigenous Australians and *To the Max!* for young people. We issued:

- 99,000 copies of *Super decisions: understanding and making superannuation choices*, in English, Chinese, Vietnamese and Arabic.
- 50,000 copies of *To the MAX!*
- 47,000 copies of *Don't kiss your money goodbye*
- 45,000 copies of *Moola talk*
- 43,000 copies of *You can complain* in English, Chinese, Vietnamese and Arabic
- 400,000 one-page flyers about superannuation death benefits.

We also delivered free superannuation training sessions to financial counsellors in New South Wales and Victoria, and attended investment expos across Australia.

Financial literacy

Following the release last year of ASIC's discussion paper on financial literacy, the Government established a financial literacy taskforce of which ASIC Commissioner Berna Collier is a member. ASIC also contributed staff to the taskforce secretariat.

Thai-based cold callers convicted

ASIC first alerted and then provided information and assistance to the Thai Securities and Exchange Commission and Royal Thai Police in relation to cold calling by persons located in Thailand. In June 2004, 7 defendants connected with a number of cold calling firms and charged under the Thai Securities and Exchange Act were found guilty, convicted and fined.

Staff also updated ASIC's public black list of organisations involved in unlawful cold calling to warn investors on our FIDO website.

International Organization of Securities Commissions (IOSCO)

ASIC became one of the nine elected members of IOSCO's Executive Committee in May. We helped draft IOSCO principles for client identification and beneficial ownership of securities.

We participated actively in the five IOSCO standing committees, covering all key aspects of securities regulation including enforcement. Projects undertaken by these committees contributed to stronger cross-border standards and co-operation.

Together with the Hong Kong Securities and Futures Commission, we assisted the Thai SEC to assess its compliance with the International Principles of Securities Regulation.

IOSCO's multilateral Memorandum of Understanding, which strengthens international co-operation in enforcement, now has 26 members. Under this MoU, ASIC obtained documents and information from 21 jurisdictions to assist enforcement action. In turn, ASIC assisted 2 other international regulators with the 5 requests they made.

Assisting vulnerable super members

Members who become 'lost' to their fund, or who have not made decisions about where they want their superannuation monies to be transferred, can be transferred from their current fund without their knowledge into an eligible rollover fund (ERF). Following an ASIC review, disclosure standards have now improved, and ERF trustees have also revisited compliance procedures for identifying 'lost' members.

Guidelines for radio advertising

We assisted Commercial Radio Australia, the association of commercial radio broadcasters, to prepare member guidelines to avoid misleading and deceptive advertising of financial products and services, and inadvertent advertising of unlicensed financial products.

Consumer Advisory Panel

See page 32 for the Panel's report and page 54 for its role.

outlook

We aim to further raise ASIC's profile as an effective protector of consumers and to maintain our strong standing among global regulators.

We will:

- focus on retirement incomes, debt reduction, and misleading and deceptive financial product advertising
- increase our consumer education activities, including for vulnerable groups of consumers, such as indigenous consumers, retirees and youth
- manage the increasing breadth of international issues affecting our domestic activities
- maintain service levels in all States and Territories.

consumer advisory panel report

Our Chairman John Wood resigned in February 2004, so the Panel has asked me to step in and approve this report. (Our new Chair, Fiona Guthrie, takes up her position in July 2004.)

The Panel met four times. It recommended ASIC fund a range of projects, including:

- qualitative research into consumer decision making about what they did with their superannuation benefit at retirement
- preparation of a consumer submission to a review of the Insurance Contracts Act
- a national education kit on car finance and insurance for young people, based on an existing successful program run in Sydney
- a collection of case studies and identification of consumer issues arising from debt reduction schemes.

In addition to advising ASIC about current issues faced by consumers in the finance industry, we helped ASIC in important areas such as credit reporting, debt reduction schemes, mortgage brokers and debt collection.

The Panel enabled us to stay up to date with financial regulation, explore issues such as grass roots financial

problems affecting disadvantaged consumers, and exchange ideas. We heard presentations on ASIC's projects and campaigns during working lunches.

Carolyn Bond, July 2004

On behalf of Consumer Advisory Panel

Members

John Wood, (Chair) former Deputy Commonwealth Ombudsman 1994–2000, resigned February 2004

Bob Andrew, Australian Investors' Association

Carolyn Bond, Consumer Credit Legal Service (Vic)

Chris Connolly, Financial Services Consumer Policy Centre

David Jackson, Australian Shareholders' Association

Su Mahalingham, Consumer Credit Legal Service (WA)

Jan Pentland, financial counsellor

Anna Stewart, Consumer Law Centre (Vic)

David Tennant, consumer advocate and lawyer.

Catherine Wolthuizen, Australian Consumers Association



Standing left to right: Carolyn Bond, Bob Andrew, Jan Pentland, Anna Stewart; seated: Catherine Wolthuizen, David Jackson, David Tennant; Absent: Chris Connolly, Su Mahalingham.

public and commercial



Mark Drysdale, Executive Director, appointed 2000, and Victorian Regional Commissioner, with experience in corporate management and regulation.



services

Overview

408 public and commercial services staff:

- maintained Australia's public database of 1.36 million companies
- assessed 9,970 complaints from the public about misconduct, and resolved or acted on 83%
- targeted company insolvency, assisted company administrators and prosecuted 702 insolvency related breaches
- answered 863,000 telephone inquiries
- provided high volume document imaging services on commercial terms.

In this section

- key results
- company insolvency
- complaints about misconduct
- public information about companies
- outlook

key results

| Issue | Result |
|---------------------------------------|---|
| Insolvent trading | 649 companies visited. Corrective action taken to avoid insolvent trading. |
| Database usage | Public use of ASIC databases surged ahead. More than 13.4 million free and paid searches. |
| Complaints about corporate misconduct | Complaints increased. Action taken to secure compliance, including 894 offences prosecuted. |

| Main activities | This year | Last year | % change |
|--|----------------------|---------------|----------|
| Fees and charges raised for the Commonwealth | \$457 million | \$405 million | 13% |
| Company data lodged on time | 92% | 93% | -1% |
| New companies incorporated | 122,441 | 107,917 | 13% |
| % documents lodged electronically | 69% | 66% | 3% |
| % paid searches done online | 98.1% | 97.5% | 1% |
| Public complaints about misconduct | 9,970 | 9,292 | 7% |
| Telephone inquiries | 863,000 | 672,000 | 28% |

Targeting insolvent trading

To reduce insolvent trading, staff visited 649 companies, ranging from small proprietary companies to listed entities. Our visits helped identify financial stress early enough to allow company directors to seek professional advice on restructuring, refinancing, preparing proper management accounts or addressing loss making activities.

We encouraged directors to seek professional advice, and if appropriate, appoint a voluntary administrator or liquidator. After our involvement, 71 companies went into voluntary administration or liquidation.

Removing bankrupts from company office

Bankrupts are disqualified from holding company office. ASIC matched data with the Insolvency and Trustee Service of Australia (ITSA) to identify bankrupts listed on ITSA's database who also appear to be company officeholders. This enabled us to require companies to appoint new officeholders and update the public register.

Public use of database up

People conducted a total 13,437,000 free and paid searches of our databases. Free internet searches of company names, numbers and document lists jumped 28% to 9.7 million, making this the most popular service offered through ASIC's website. The total number of information broker searches rose 10% to 3.1 million, with 98% of full company searches occurring online, the highest number ever. Over the counter searches in our Service Centres continued their downward trend.

Acting on public complaints about misconduct

ASIC encouraged the public to report suspected corporate and financial services misconduct, and we received 9,970 complaints, up 7%.

Public complaints

| | This year | Last year |
|-----------------------------|--------------|-----------|
| Public complaints | 9,970 | 9,292 |
| Outside ASIC's jurisdiction | 7% | 7% |
| No offences identified | 13% | 14% |

Action taken

| | | |
|--|------------|-----|
| Resolved | 44% | 52% |
| Compliance action taken | 14% | 9% |
| Referred for investigation or surveillance | 5% | 4% |
| Analysed, assessed and recorded | 17% | 14% |

Our complaints staff sought compliance where action could be taken quickly, for example:

- requiring directors of failed companies to assist liquidators
- helping to locate companies that had moved but had not updated their information
- ensuring that disqualified persons were not involved in managing corporations
- stopping companies avoiding their creditors by voluntarily deregistering themselves illegally.

Highlights included:

- 1,390 warning letters, achieving compliance in 75% of those cases
- 53 criminal charges referred to the Commonwealth Director of Public Prosecutions, 27 of which are currently before courts
- 469 people prosecuted for 894 offences with penalties including 1 jail term, 1 community service order, 5 good behaviour bonds and total fines and costs of \$735,000, with a further 277 matters currently before courts.

Reports from liquidators

Liquidators, administrators and receivers reported suspected misconduct found in the course of their administrations. Although these reports increased 12%, the number actually reporting alleged offences rose only 1%.

Statutory reports

| | This year | Last year |
|------------------------------------|--------------|-----------|
| Total statutory reports received | 6,946 | 6,176 |
| Reports where no offences reported | 1,625 | 925 |
| Net statutory reports | 5,321 | 5,251 |

Action taken

| | | |
|---|------------|-----|
| Resolved | 10% | 8% |
| Compliance, investigation or surveillance | 2% | 2% |
| Analysed, assessed and recorded | 88% | 90% |

More new companies formed

The total number of companies registered in Australia increased 4.5% to 1,359,305. The number of new companies increased by 13%. Electronic company registration now accounts for 75% of new companies formed.

'Public use of ASIC services increased, with database searches up 23% and reports of suspected misconduct up 7%.'

'Corporate Key' safeguards company data

To allow companies to safeguard their information on the public register against unauthorised changes, we introduced a 'corporate key' in July, now issued to 750,000 companies. The key allows companies to check and change information online. In March, we extended the concept so that companies could guard against unauthorised changes lodged in paper format.

Annual returns abolished

From 1 July 2003, companies no longer had to lodge compulsory annual returns if their company details remained unchanged, reducing an administrative burden. The reforms also improved public access to details of company share structure and members.

The changes were introduced progressively and involved quality work by a number of company administration software providers. ASIC took a facilitative approach to company requests during the transition period, including waiving late lodgement fees.

Ensuring companies lodge information

About 92% of companies lodged their information with us on time, almost the same as last year. Only 4% of documents lodged with us required us to requisition further details before being entered, an improvement over last year. Some 69% of company documents were lodged electronically, making this information available more quickly and reducing errors.

To keep important company information up to date, ASIC warned and took legal action against officeholders failing to lodge information or lodging false information. We issued:

- 12,494 warning letters and 3,417 notices, and began legal proceedings against 429 companies for not lodging financial reports
- 2,225 warning letters for not lodging company documents other than financial reports.

More telephone inquiries

ASIC's Client Contact Centre handled more than 863,000 calls from the public. We handled 755,000 calls on routine company housekeeping matters and company searches, up 42%, as we helped companies with inquiries about CLERP 7 reforms.

Infoline staff dealt with 108,000 calls on regulatory, enforcement and consumer protection issues, down 24% as a result of a full year's operation of technology improvements that reduced double handling of calls. Infoline staff assisted 97% of callers on the spot. Where another staff member had to ring the caller back, we averaged 64% of call-backs within 24 hours, down from 67%.

Commercial services

Our commercial activities complied with competitive neutrality principles. Within that framework, we specialised in:

- high volume scanning services for organisations that wish to 'back capture' data
- document management services in litigation and public inquiries.

Customers included a range of government and private sector organisations.

outlook

Over the next year, we expect public demand for our services to keep on growing, challenging us to maintain efficient and effective service.

We will:

- maintain our commitment to deter insolvent trading
- contribute to law and policy reform in corporate insolvency
- increase summary prosecution action arising from public complaints
- extend our electronic interfaces, particularly for companies updating data, and improve the maintenance and security of Australia's corporate database.

infrastructure and staff



Carlos Iglesias, Executive Director, appointed 2001, previously ASIC Director, Information Technology and Knowledge Management.



Overview

297* infrastructure staff delivered services to 1,531 staff throughout ASIC's offices:

- information technology and knowledge management
- human resources
- finance
- business management.

*Includes 21 full-time graduates working for other directorates.

In this section

- key results
- our staff
- financial and business management
- information technology
- outlook

key results

| Issue | Result |
|------------------|---|
| Our staff | Increased staff to meet added demands and redressed staff remuneration to move towards parity with other Treasury portfolio agencies. |
| ASIC funding | Received additional funding for 2004–05 for ongoing operations and auditor surveillance. |
| Cost of services | Reduced cost of office services by 4.5% while maintaining service levels. |

Increased staff to meet demand

Staff numbers increased 10% to 1,531 full-time equivalents, comprising investigators, lawyers, accountants, and analysts; information processing and customer service staff; infrastructure staff, information technology, human resources, financial, and communication specialists.

Staff (average full-time equivalents)

| | This year | Last year |
|---|-------------|-----------|
| Operational and support (ASIC 1–4) | 878 | 810 |
| Senior operational staff (EL1 and EL2) | 534 | 455 |
| Senior Executive Service | 29 | 31 |
| Others (contractors, agency staff, consultants) | 87 | 97 |
| Commissioners | 3 | 3 |
| Total | 1531 | 1396 |

Redressed staff remuneration

The Commission offered all staff a 4% increase in pay under a single purpose Australian Workplace Agreement (AWA), to better reflect pay levels at comparable Treasury portfolio agencies.

ASIC contributed to superannuation through Commonwealth government schemes, State government schemes for staff who transferred to ASIC in 1991, and private sector schemes for consultants or contractors. See also the financial statements on page 90.

A safe workplace

Some 20 workplace injuries occurred, fewer than last year, mainly 'sprains/strains' and 'falls at the same level'. We reduced the incidence of lumbar injuries by conducting manual handling training and workshops at all sites.

To improve safety, we also carried out:

- quarterly OH&S risk assessments at all sites
- 35 OH&S training sessions attended by 607 staff
- ergonomic assessments, screen-based eye tests, and other protective measures
- OH&S awareness programs including articles in internal publications and poster displays.

ASIC maintained its sound record on occupational health and safety, with an average time incapacitated per injury of 2.69 weeks, compared with 2.72 weeks for all Commonwealth government agencies.

ASIC required every manager to take responsibility for ensuring a safe workplace for their staff and the public. Specialist OH&S staff and national and local OH&S committees assisted.

Funding for staff development

To ensure staff have the skills to meet future needs, ASIC spent more than \$1.4 million on staff development, focusing on leadership development as well as technical skills. Our capability framework targeted these funds to the requirements of our work.

Some 8 staff members undertook secondments to private sector organisations or international regulators and 34 staff members from other organisations joined ASIC on secondment.

Leadership development

To develop ASIC leaders, an additional 26 staff commenced the Graduate Certificate Mt Eliza senior management development program. Some 23 staff completed the Mt Eliza Graduate Diploma in Business Management (Executive), and a number of these will go on to complete the MBA component of the program. We also recruited 22 new graduates who will participate in a 12-month rotation program through the agency.

Merit and equal opportunity

ASIC required that all staff engagements and promotions be conducted in accordance with the merit principle and the APS values.

We reviewed our recruitment procedures and developed new publications, training and advice to assist those involved in selection processes. We conducted mandatory training for all staff to maintain and reinforce respect for the variety of backgrounds, experiences and perspectives of staff in our workplaces.

ASIC is an equal opportunity employer. At 30 June 2004, women made up 58% of our workforce and 41% of our executives and senior executives. Under a joint Women in Law Enforcement Strategy, 3 female ASIC staff joined a 1-year mentoring program with mentors from other agencies, and 3 ASIC senior managers acted as mentors to women from other agencies.

We also participated in the Commonwealth strategy to ensure access to recruitment, training and grievance procedures for people with disabilities, see page 58.

Basis of staff employment

Most staff are ongoing employees under the Public Service Act. Non-ongoing staff helped us complete special projects as well as seasonal peak workloads in document processing.

Basis of employment

| | This year | Last year |
|---|-----------|-----------|
| Public Service Act, ongoing | 1,015 | 952 |
| Public Service Act, temporary, most often for peak company data processing | 400 | 322 |
| ASIC Act consultants, for essential specialist services including investigatory, legal, corporate regulatory and accounting functions | 49 | 54 |
| Contractors, mainly in information technology | 64 | 65 |
| Commissioners | 3 | 3 |
| Total (average FTE over the year) | 1,531 | 1,396 |

Industrial and workplace relations

Staff were represented either through their union or staff representatives. ASIC maintained a National Consultative Committee that met regularly about workplace issues.

ASIC also maintained formal procedures for staff to raise grievances. Two formal applications for review of management actions under the Public Service Act were received.

Performance management

All staff participated in a formal performance management process, that enabled management to reward high performing staff, manage underperformance and to identify staff development needs.

Location of staff

| State or Territory | This year | Last year |
|------------------------------|-----------|-----------|
| Victoria | 663 | 605 |
| New South Wales | 547 | 487 |
| Queensland | 131 | 119 |
| Western Australia | 93 | 90 |
| South Australia | 58 | 51 |
| Australian Capital Territory | 16 | 20 |
| Tasmania | 16 | 16 |
| Northern Territory | 7 | 8 |
| Total | 1,531 | 1,396 |

Additional funding from government

In the May budget, the Government granted ASIC an additional appropriation of \$13.5 million, being \$11.7 million to sustain ASIC's operations and \$1.8 million for auditor surveillance as part of CLERP 9. We will also receive an equity injection of \$11.3 million to address accumulated past losses to restore ASIC's balance sheet to positive equity. This equity funding may not be spent on ASIC operations.

'Credit for the highlights and achievements of the organisation go to our 1,531 staff.'

Service expenses reduced, expectations met

We reduced total site service expenses nationally by 4.5%, including significant cost reductions in stationery, freight, travel services and fleet ranging from 11% to 30%. To control ongoing costs, staff identified capital equipment needs for the next five years and introduced electronic desktop booking systems for facilities and fleet needs. National contracts, streamlined processes and close liaison with operational staff enabled us to meet rising service expectations while reducing costs.

Office space used efficiently

ASIC leased all its office accommodation and made efficient use of rented space. We remained in the top quartile for average office space per full-time equivalent staff among Australian Public Service decentralised agencies. We accommodated more staff within our current tenancies, and upgraded systems to manage and report on our 16 leases, leasehold improvements and new office accommodation projects.

Improved financial management

New systems and procedures improved turnaround times for developing internal budgets and enabled better reporting of year-end forecasts of revenues and expenses. They also allowed us to complete our financial statements ahead of reporting deadlines. Planning began to comply with international financial reporting standards in 2004–05, and ASIC's audit committee has been kept up to date.

To enable ASIC's suppliers to receive cleared funds earlier, we increased the percentage of EFT payments being processed from 49% to 85% of invoices by value.

Reducing environmental impact

ASIC cut power consumption and achieved the Government's 10,000 MJ per person target, set for all Commonwealth agencies, for reducing office tenant light and power.

| Year | MJ per person |
|---------|---------------|
| 2003–04 | 8,980 |
| 2002–03 | 9,134 |
| 2001–02 | 10,431 |

This year's decrease in energy consumption per person occurred despite including our Traralgon site in the national figures for the first time, following installation of pulse metering equipment to let us measure and manage power consumption at that site.

As part of the Australian Greenhouse Challenge, we worked on an extensive process to accredit our largest site, in Sydney, to International Standard *ISO:14001 Environmental Management Systems*. Completion is expected by the end of 2004, and then we aim to implement relevant improvements at all our sites. ASIC operations have no implications for ecologically sustainable development.

Better managing knowledge

To share information and knowledge within the organisation more effectively, we completed four important projects:

- a law reform registry, with information and comment on changes to existing law or new law reform initiatives
- a legal opinions and advice database on various issues and sections of the laws ASIC administers
- an upgraded intranet covering content, navigation, authoring and design
- a high level information map that provides an overview of all ASIC systems.

We supported 13 'communities of practice', comprising staff who share a practice domain and meet regularly to share knowledge and experience, and began an information audit project.

IT reform program

ASIC began a major information technology reform program to upgrade the IT services we offer to the public, and the systems and services which support our regulatory and enforcement responsibilities. A new role of Chief Information Officer was created (and filled in July 2004), and a new IT strategic plan, including an enterprise IT architecture, is being developed.

Staff successfully upgraded our data communications infrastructure, as well as increasing its capacity, and replaced and consolidated our fleet of applications file servers.

Unclaimed monies

Public searches for unclaimed banking, insurance and company monies remained one of our most popular and successful internet services. This year more than 10,000 people were reunited with \$22 million in unclaimed monies.

Key new IT applications

| User Group | What the application delivered |
|---|--|
| Phone callers | Began implementing a new national telecommunications infrastructure that replaced ASIC's aged system with more modern technology. This will increase the reliability of ASIC's phone system. |
| Applicants for Australian Financial Services licences | Systems to support the licensing process, including systems to apply and lodge licence applications online. |
| Operational staff | New workflow systems to boost efficiency, including systems for staff in corporate finance and enforcement. |
| Staff and management | A completely new version of our HR information and payroll system that is easier to use, offers more information and improves reporting. |

outlook

We will:

- implement and develop strategies to strengthen staff skills and recruit and retain capable and committed people.
- develop new systems and applications to manage and share information.
- accelerate our IT reform program and develop systems for corporate law reforms
- increase internal efficiencies.

where ASIC fits in the regulatory picture

Who does ASIC regulation protect?

Consumers, investors and creditors of corporations, including an estimated*

- 15.5 million people with a deposit account
- 10.2 million investing through superannuation or annuities
- 9.7 million with credit or charge cards, including debit only
- 6.3 million with a home, personal or investment loan
- 4.1 million directly owning shares
- 2.1 million having invested through a financial adviser, and
- 1.2 million investing in managed funds.

*Roy Morgan Research, 12 months to March 2004, people aged 14+

Who we regulate

How we regulate them

| | |
|--|---|
| 1.36 million companies | Register each company with a unique number, and record the number, name, directors and other information on a public register. Investigate and act against misconduct by company directors and officers. Grant or refuse requests for relief from the law. Receive prospectuses before money is raised. Uphold the law on financial reporting and company mergers and acquisitions. |
| 6,529 company auditors, 758 registered liquidators and 356 official liquidators | Register them before they start operating. Investigate and act against misconduct. |
| 8 financial markets and 4 clearing and settlement facilities licensed by the Minister, including: <ul style="list-style-type: none">• Australian Stock Exchange Ltd• Sydney Futures Exchange Ltd | Investigate and act against misconduct by listed companies, brokers and traders. Assess and report to the Minister on market supervisory arrangements. Advise the Minister about rule changes and whether to approve new markets. Monitor what ASX Ltd does as a listed company, and trading in its shares. |
| 3,853 financial services businesses, regulated by ASIC including: <ul style="list-style-type: none">• fund managers• stockbrokers• financial advisers• insurance brokers | License them before they start operating. Set standards for education, training and operations. Investigate and act against misconduct. Record their details and their authorised representatives on a public register. |
| 3,765 managed investment schemes, registered by ASIC | Register them before they start operating. Investigate and act against misconduct. Record their details on a public register. |
| APRA-regulated financial services businesses, including: <ul style="list-style-type: none">• banks and deposit-taking institutions• superannuation funds• life and general insurance companies | Investigate and act against misconduct affecting consumers or misconduct as corporations. Cooperate with APRA. Approve consumer complaint resolution schemes. Report on how they comply with codes of practice. |
| Credit providers operating under State and Territory laws | Investigate and act against misleading and deceptive conduct affecting consumers. Cooperate with State and Territory regulators. |

ASIC's statutory aims

In brief, section 1(2) of the ASIC Act requires us to:

- uphold the law uniformly, effectively, and quickly
- promote confident and informed participation by investors and consumers in the financial system
- make information about companies and other bodies available to the public
- improve the performance of the financial system and entities within it.

ASIC's legislation

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection under the *Australian Securities and Investments Commission Act 2001*; *Corporations Act 2001*; *Insurance Act 1973*; *Insurance Contracts Act 1984*; *Superannuation (Resolution of Complaints) Act 1993*; *Life Insurance Act 1995*; *Retirement Savings Accounts Act 1997*; and the *Superannuation Industry (Supervision) Act 1993*. (Until 11 March 2004 ASIC also administered the *Insurance (Agents and Brokers) Act 1984*, now repealed.)

Other financial regulators

The Australian Prudential Regulation Authority (APRA) regulates prudential standards for deposit-taking institutions, insurance companies, and larger superannuation funds designed to ensure, under all reasonable circumstances, that they meet their financial promises.

State and Territory fair trading or consumer affairs agencies regulate consumer credit under the Uniform Consumer Credit Code.

The Reserve Bank of Australia (RBA) regulates monetary policy and the stability of the financial system.

ASIC cooperated with these bodies through consultation at senior level and regular contact by operational and policy staff.

commissioners



Jeffrey Lucy, AM

FCA, FAICD

Chairman from May 2004, for a three-year term. Previously ASIC Deputy Chairman from February 2003.

Jeffrey Lucy is a Chartered Accountant and a Fellow of the Institute of Chartered Accountants in Australia, the National Institute of Accountants, and the Australian Institute of Company Directors. He was most recently the Chairman of the Financial Reporting Council and head of Lucy Consulting.

He is a former member of the Business Regulation Advisory Group, a former National President of the Institute of Chartered Accountants in Australia, and a former Managing Partner of PricewaterhouseCoopers, Adelaide. He was made a Member of the Order of Australia for his contribution to the accounting profession and to the business sector as an adviser on corporate and taxation reform.



Jeremy Cooper

LLB (Hons) U. Melb, ASIA

(Incoming Deputy Chairman from July 2004 for a five-year term).

Jeremy Cooper is a lawyer and former partner of Blake Dawson Waldron, having worked with the firm in the corporate area for more than 19 years. He has been involved in many major transactions, including takeovers, reconstructions, ASX listings and capital raisings, as well as advising on Corporations Act and securities market issues. He has been a member of the Corporations Committee of the Business Law Section of the Law Council since 1995 and is a regular speaker on corporate law issues.

commissioners continued



Berna Collier

BA, LLB (Hons)(Qld), LLM (Melb)

ASIC Commissioner from November 2001 (re-appointed from 15 July 2004 for a four-year term).

Professor Berna Collier is a lawyer and a member of the Insolvency, the Company Law and the Banking and Finance Committees of the Law Council of Australia. She serves on the Advisory Board of Axiss Australia.

She has worked in and written extensively about commercial and insolvency law for 15 years. Professor Collier was most recently Professor of Commercial Law at the Queensland University of Technology and an educational consultant with CPA Australia. She previously practised law in Melbourne and Brisbane. During 1999 and 2000, Professor Collier chaired the Commonwealth Government Taskforce on Industry Self-Regulation.



David Knott

LLB

ASIC Chairman from November 2000 until his resignation in December 2003.

David Knott is a lawyer and Fellow of the Australian Institute of Company Directors. Previously he was ASIC Deputy Chairman from July 1999. His career covers 13 years in private legal practice, specialising in company and commercial law, 10 years in senior roles in investment banking, and 10 years in the public sector.



Carlos Iglesias

BEC (ANU), FCPA

Acting Commissioner from December 2003 until May 2004.

Carlos Iglesias is ASIC's Executive Director, Infrastructure. He previously served as Director of ASIC's Information Technology Services Branch. The Treasurer appointed him as Acting Commissioner until the formal appointment of Chairman Jeffrey Lucy in May 2004.



Malcolm Rodgers

BA (Hons), LLB

Acting Commissioner from May until July 2004.

Malcolm Rodgers is ASIC's Executive Director, Policy and Markets Regulation. He previously served as Director of ASIC's Regulatory Policy Branch. In May 2004, the Treasurer appointed him as Acting Commissioner pending the appointment of a new Deputy Chairman.

ASIC governance

Three full-time Commissioners directed ASIC's affairs. Full-time membership let Commissioners monitor and direct ASIC's complex and wide-ranging activities, and avoided conflicts of interest that might otherwise affect part-time Commissioners still active in business, law or accounting.

Commissioners reviewed ASIC's strategic plan (page 8), set national priorities and approved business plans for each directorate. In addition to day-to-day contact, the Commission received written monthly and quarterly reports from executives on operational performance, finance, human resources and information technology. The Commission also considered Audit Committee reports, governance and delegations.

Independent legal and accounting experts advised on specific matters. ASIC's Office of General Counsel reports directly and independently to the Commission, and gave legal counsel to Commissioners on ASIC operations and administration. Where necessary, an individual Commissioner may obtain independent legal advice at ASIC expense.

The Commission held 18 formal meetings.

| Commissioner | Eligible to attend | Attended |
|--------------------------|--------------------|----------|
| Jeffrey Lucy | 18 | 17 |
| Berna Collier | 18 | 18 |
| Carlos Iglesias (Acting) | 5 | 5 |
| Malcolm Rodgers (Acting) | 3 | 3 |
| David Knott | 7 | 6 |

Executive Directors of our six operating Directorates also attended Commission meetings. In 2004, the Commission decided to replace separate meetings of its Executive Committee (Commissioners and Executive Directors) with more frequent, formal Commission meetings, to bring about uniformity and certainty as to the process and conduct of such meetings.

Commissioners and relevant senior executives also made decisions and set priorities in major enforcement and regulatory matters through our National Enforcement Conference and Regulatory Policy Group.

Commissioners' appointment and remuneration

The Governor-General, on the nomination of the Treasurer, appointed Chairman Jeffrey Lucy in May 2004 to replace Mr David Knott who resigned in December 2003. (The Treasurer had appointed Mr Lucy as Acting Chairman until May.) (In July 2004, Jeremy Cooper was appointed Deputy Chairman and Commissioner Berna Collier's term was extended for four years.) The Treasurer appointed Carlos Iglesias and then Malcolm Rodgers as Acting Commissioners.

Commissioners are appointed on fixed terms that may be terminated earlier only for reasons set out in section 111 of the ASIC Act. The Treasurer may nominate as Commissioners only people who are qualified by knowledge or experience in business, administration of companies, financial markets, financial products and financial services, law, economics or accounting. The Remuneration Tribunal set Commissioners' remuneration; see also page 101.

Reporting to Parliament

ASIC appeared before Commonwealth Parliamentary Committees on 10 occasions: Parliamentary Joint Committee on Corporations & Financial Services (4), Parliamentary Joint Committee on the Australian Crime Commission (1), Senate Economics Legislation Committee (4) and House of Representatives Standing Committee on Economics, Finance & Public Administration (1).

ASIC also submitted an annual report, and replied to Parliamentary questions and inquiries on behalf of constituents.

Role of the responsible Minister

The Ministers responsible for ASIC are the Treasurer, the Hon Peter Costello MP and, in matters determined by him, the Parliamentary Secretary to the Treasurer, the Hon Ross Cameron, MP (from October 2003), and previously Senator the Hon Ian Campbell. Under the ASIC Act, the Minister nominates Commission members for appointment by the Governor-General.

Commissioners reported formally to the Minister through their annual report of operations, briefings, submissions and meetings with the Treasurer or Parliamentary Secretary. ASIC also briefed the Treasury about current issues and proposed changes to the law.

ASIC's legislation permits the Minister to direct ASIC in specific circumstances. Consistent with Ministerial practice across most statutory authorities, such powers have been exercised rarely.

Under section 12 of the ASIC Act, the Minister may direct ASIC about policies and priorities in using our powers or performing our functions, but may not direct us about a particular case. Only one such general direction has been given, in September 1992, about collaboration and consultation between ASIC and the Director of Public Prosecutions in the investigation and prosecution of serious corporate wrongdoing.

Under section 137, the Minister must approve contracts exceeding \$1 million and leases of land exceeding 10 years.

Under section 28 of the Commonwealth Authorities and Companies Act, the Minister may also notify Commissioners in writing of general policies of the Commonwealth Government that will apply to ASIC. Two such notifications have been received:

- one dealing with cost recovery for services provided, received in July 2003
- one dealing with the National Code of Practice for the Construction Industry, received in June 2004.

ASIC applied these policies from the date of notification.

In addition, Commonwealth Ministers and Departmental Secretaries from time to time asked ASIC, along with other agencies, to conform to Government policies affecting our general administration, for example, use of the Commonwealth coat of arms in logos.

Relationship with the States

The Commonwealth assumed responsibility for corporate regulation from the States in 1991, subject to arrangements between the Commonwealth, States and Northern Territory under the Corporations Agreement 2002.

That Agreement requires the Commonwealth to consult the Ministerial Council for Corporations (MINCO), comprising Commonwealth, State and Northern Territory Ministers, in appointing ASIC Commissioners, and requires ASIC to:

- consult the relevant State or Northern Territory Minister in appointing Regional Commissioners
- maintain certain minimum service levels in each State and the Northern Territory
- maintain offices in each State capital and Darwin, and
- maintain regional liaison committees in each State and the Northern Territory to consult the local business community, and use our best endeavours to have a Commission member present at those meetings, see page 54.

ASIC attended MINCO to observe and answer questions about the administration of the corporations legislation. We also attended the Ministerial Council on Consumer Affairs as part of our role in protecting consumers in credit, a jurisdiction shared with the States and Territories.

managing risk

Managing operational risk is essential to good governance. The Commission and Executive Directors regularly reviewed key risks and our practices for managing them. In late 2003, Comcover, the government fund for insurable risks, recognised our approach as exceptional and awarded ASIC its inaugural 'Award for Excellence in Risk Management'.

Staff ethics

All ASIC staff must adhere to the Australian Public Service values and code of conduct under the *Public Service Act 1999*. The values and code require impartiality, honesty, diligence and service, and all staff are required to attend training to learn about and apply the values and code.

Formal procedures required disclosure of any real or apparent conflict of interest. Commissioners and staff are required to take no part in decisions where real or apparent conflicts of interest may arise. We set up special reporting and decision-making procedures to maintain the integrity of our decisions.

The Chairman and Commissioners disclosed to the Minister all direct or indirect pecuniary interests in businesses, companies, or financial products regulated by ASIC.

Staff were required to keep registers of interests that supervisors may inspect at any time, and senior executives were required to submit statements of interests to the Chairman. Commissioners appointed senior disclosure officers to advise managers and staff on how to handle possible conflicts.

Complaints about staff

We maintained internal procedures for investigating complaints about how our staff carry out their significant public responsibilities, which include formal inquiry and disciplinary procedures under the Public Service Act.

Complaints about the way in which ASIC administers its powers may also be made to, and investigated by, the Commonwealth Ombudsman.

Confidentiality and security

ASIC receives extensive information that it must protect from unauthorised disclosure. All staff, immediately on joining, must sign confidentiality undertakings, and, if they occupy positions of trust, must undergo a security assessment. ASIC also maintained various other security systems and procedures designed to safeguard confidential information. External government experts and external and internal auditors regularly reviewed our general and IT security arrangements, disaster recovery systems and procedures.

Fraud control

ASIC reviewed its fraud risks and implemented the strategies outlined in its 2001–03 fraud control plan. The plan outlines strategies and processes to avoid, detect, investigate and minimise the effects of fraud. We maintained reporting and data collection mechanisms that met our needs and complied with Commonwealth Fraud Control Guidelines. A new fraud control plan is being developed.

Audit

The Commission appointed an internal audit manager who reported to the Commission's Audit Committee.

The Audit Committee examined internal and external audit matters and risk assessment, see page 56. The majority of members are independent of ASIC, including the Chair, Ms Merran Kelsall, who is a senior chartered accountant and company director in private practice. The Committee's charter conforms with Australian National Audit Office and Australian Institute of Company Directors guidelines.

The Commonwealth Auditor-General audited ASIC's financial statements, see page 62.

Disclosure

To operate transparently, while protecting confidential information, ASIC:

- observed the requirements of the *Freedom of Information Act 1982*, see page 57
- met high standards of disclosure through its Annual Report, see page 2
- published up-to-date information on our websites, and through the *ASIC Digest* and other publications, see page 57
- issued media releases, subject to written guidelines, about enforcement and regulatory issues, while respecting the rights of people subject to investigation or administrative action.

Insurance and indemnities

Consistently with the Commonwealth Authorities and Companies Act, ASIC:

- paid a premium of \$62,073 for Directors and Officers' insurance (including employment practices insurance) which covered all current and former Commission members and ASIC staff members for liabilities, including legal costs, incurred by them in the performance of their duties
- provided indemnities to Commission members for liabilities, including legal costs, incurred by them in the course of their duties
- reimbursed former Chairman David Knott, \$27,643.70 for legal and other costs he incurred in respect of allegations made against him during his term as Chairman
- reimbursed Executive Director, Financial Services Regulation, Ian Johnston, \$7642.81 for legal costs he incurred in respect of a claim brought against ASIC and Mr Johnston.

community and regional involvement

Reaching out to schools

On the back cover of this annual report is the prize winning poster from our Northern Territory schools competition. All year 9 and 10 students in the Territory stood the chance of winning \$200 for themselves and \$1,000 for their school by participating. Students were asked to design a poster with a slogan about looking after money or ways to avoid being ripped off by a financial scam.

Keeping stakeholders in the picture

Senior ASIC staff gave more than 250 presentations to an estimated 15,000 people from the markets, financial services industry, companies, government agencies and consumer groups about how to comply with the law and how the law protects users of financial markets, products and advice.

Supporting a consumer voice

We funded a 10-member Consumer Advisory Panel, including consumer and investor advocates experienced in financial services and an independent Chair. It recommended research, alerted us to issues and commented on policy affecting investors and consumers. Read the Panel's report on page 32. We also consulted other investor and consumer organisations.

Building relationships

To build support for compliance and good practice, we met regularly with some 18 peak industry and professional associations, and consulted other organisations, companies and professionals on proposed policies. We helped thousands of company office holders and professionals over the phone.

ASIC's 10th Summer School brought together 24 speakers and 115 participants from overseas and Australia, selected from industry, the professions, government, regulators and our own staff. The theme, 'Decent or Indecent Disclosure – The role of disclosure in achieving accountability in the Australian financial system', was chosen to discuss recent Australian and international developments.

Supporting professional standards

To encourage professional education in the financial industry, we sponsored prizes for two Securities Institute courses (*Securities Industry Law and Ethics* and *Managed Investment Principles*), the Australian Securities and Investments Commission Prize for Proficiency in Corporate Law at the University of Sydney and the ASIC prize in Corporate Law at the University of Wollongong.

Serving Australia's regions

ASIC's Regional Commissioners are responsible for ensuring that we understand specific needs of, and maintain service levels in, all the States and Territories. They represented the organisation and reported on ASIC's activities and performance to State and Territory Ministers. They bring a range of qualifications including law and accounting and experience in regulation, government and consumer affairs.

Regional Liaison Committees representing the business community met about four times each year, received information on our performance and service, and offered ideas. A Commissioner usually attended these meetings.

ASIC's Regional Commissioners also played national roles.

| Regional Commissioner | State or Territory | National role |
|------------------------------|------------------------------|--|
| Anthony Beven | Northern Territory | Consumer Protection National Adviser |
| Mark Drysdale | Victoria | Executive Director (see page 33) |
| Simon Dwyer | South Australia | Director, Information and Systems |
| Michael Gething | Western Australia | Markets and Policy National Adviser |
| Jennifer O'Donnell | New South Wales | Deputy Executive Director, Markets Regulation and Policy |
| Julie Read | Tasmania | Director, Enforcement |
| Delia Rickard | Australian Capital Territory | Deputy Executive Director, Consumer Protection and International Relations |
| Greg Tanzer | Queensland | Executive Director (see page 28) |



Standing left to right: Anthony Beven, Linda Dean (Acting ACT Regional Commissioner) Simon Dwyer, Jennifer O'Donnell, and Greg Tanzer; seated: Mark Drysdale, Michael Gething and Julie Read. Absent: Delia Rickard.

ASIC audit committee and audit services

The Audit Committee assisted the Commissioners and senior managers to identify, monitor and review the effectiveness and integrity of ASIC's internal controls, in conjunction with internal and external audit.

The Committee examined and provided assurance to the Commission on the soundness and integrity of ASIC's financial statements. It also considered issues concerning preparation of future financial statements, which must comply with International Financial Reporting Standards.

Key internal audit reviews included ASIC's disaster recovery plan, project management arrangements for investigations, trust account funds administered by ASIC and monthly financial reporting. Internal audit also reviewed compliance with ASIC policies, including IT security arrangements, travel and corporate credit cards, contract and procurement, and financial delegations.

The Audit Committee had five members. Three external members, including the Chair and Deputy Chair, have significant financial and business experience. Merran Kelsall, BCom (Hons), FCA, MBA, is a Chartered Accountant, consultant and company director, Robert Savage, BCom, FCA, is a Chartered Accountant and company director, and Bob Lynn, FCA, is a Chartered Accountant. The two internal members were Commissioner Berna Collier, and Executive Director Greg Tanzer, who replaced Regional Commissioner Simon Dwyer in January.

The Committee met four times.

| Members | Eligible to attend | Meetings attended |
|---|---------------------------|--------------------------|
| Merran Kelsall, Chair, appointed January 1998 | 4 | 4 |
| Robert Savage, Deputy Chair, appointed March 2000 | 4 | 4 |
| Berna Collier, ASIC Commissioner, appointed March 2002 | 4 | 4 |
| Simon Dwyer, South Australian Regional Commissioner, appointed April 2001 until December 2003 | 2 | 2 |
| Bob Lynn, appointed March 2002 | 4 | 4 |
| Greg Tanzer, Executive Director Consumer Protection and International Relations, appointed January 2004 | 2 | 2 |

The financial statement sub-committee, comprising only external members of the Audit Committee, met once during the year.

The Australian National Audit Office provided external audit services, KPMG Assurance and Advisory provided internal audit services. Des Samuels replaced Brendan Dwyer as National Manager, Audit in December. Both external and internal audit representatives attended Audit Committee meetings.

Merran Kelsall,
Chair, ASIC Audit Committee, July 2004

appendices

In this section

- publications
- freedom of information
- disability strategy report
- Electoral Act disclosure

Publications

We published the following free publications:

- Electronic newsletters only: *FIDO News* (financial tips and safety checks) *Financial Services Update* (financial services reform). Printed newsletters: *ASIC News* (regulation and enforcement), *InFocus* (company information)
- Brochures: *Don't kiss your money goodbye*, *Super decisions*, *You can complain* (last two also in Arabic, Chinese and Vietnamese).
- Comics: *Moola Talk*, *To the Max!*
- Annual report, occasional reports, papers and information sheets on a wide range of topics accessible through our website or Infoline.

We published for sale *ASIC Digest*, *ASIC Working Guide for Accountants*, *ASIC Working Guide for Company Secretaries*, *ASIC Financial Services Policy Handbook*, *ASIC Forms on CD-ROM*, *ASIC Managed Investments Handbook*, and *ASIC Policy Alert*.

Freedom of Information Act 1982

You have a right to apply to ASIC for access to documents in ASIC's possession under the *Freedom of Information Act 1982* (Cth) (FOI Act). You must apply in writing, stating which documents you want to obtain. Requests should be directed to the Administrative Law Coordinator in your State or Territory or to the Manager, Administrative Law, in Sydney. (For further information on how to apply visit www.asic.gov.au).

Categories of documents in ASIC's possession relate to matters including:

- operational matters such as:
 - licence and professional registration applications
 - applications from businesses, correspondence, internal working papers, policy proposals and submissions, and
 - administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers
- law reform, including submissions and proposal papers
- correspondence with members of the public, government entities, Parliamentary committees, business entities and other bodies

- administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and staff management, delegation and authorisation
- reference materials, including those contained in the library, handbooks, guidelines, manuals, policy statements, practice notes, media releases, information releases, pamphlets and annual reports, and
- other documents held as public database information (ASCOT).

As required by section 9 of the FOI Act, we note that you may inspect and purchase by subscription the following documents from Thomson-CPD, phone 1800 036 186.

- *ASIC Digest* – which contains, among other things, policy statements, practice notes, information brochures, media releases, information releases, summaries of most ASIC instruments, class orders, and pro-formas for various types of standard relief.

Note: Documents available to the public through ASIC's website (www.asic.gov.au), ASCOT or the *ASIC Digest* and library material maintained for reference purposes are not available under the FOI Act.

Commonwealth Disability Strategy Report

As a regulator, ASIC published in formats accessible for people with disabilities, all its publicly available information on regulations, quasi-regulations and compliance reporting. This occurred through our website on the day materials were released, and in hard copy through our commercial publisher and on request through ASIC's Infoline. After further work, our website now substantially complies with accessibility guidelines, within the limits of the technology at our disposal.

As an employer, ASIC incorporated the requirements of the *Disability Discrimination Act 1992* when developing and reviewing employment policies, procedures and guidelines.

- Recruitment information was released in accessible electronic format, within 24 hours, or posted out in hard copy on request within 24 hours. No requests were received for other formats.
- Human Resources staff advised managers and recruiters on reasonable adjustments required for job applicants and staff with disabilities (including staff access to training).
- Information on disability issues was included in training programs as appropriate.
- ASIC also has internal and external grievance procedures, including review of actions under the Public Service Act and appeals to the Australian Public Service Commission. Grievance provisions have been included in the ASIC certified agreement. Staff also had access to an Employee Assistance Program. ASIC received no complaints about disability issues during 2003–04.

Disclosure under Commonwealth Electoral Act 1918

Section 311A of this Act requires us to report for the financial year payments made by us or on our behalf to:

- polling organisations, advertising agencies and media advertising organisations: Nil
- market research organisations: Chant Link & Associates \$61,781
- direct mail organisations: CMR Direct \$41,160 for mailing *ASIC News*, BluePrint Instant Printing Pty Ltd \$22,327 and Chandler \$47,732 for printing and mailing *InFocus*, Canprint Communications Pty Ltd \$6,713 for printing and mailing the *Business Gazette*, Hermes Precisa Pty Ltd \$584,112 for printing and mailing Annual Review Statement Packs and invoices.

Finance sector levy

Some \$11.8 million of our appropriation was levied by the government on deposit taking, superannuation, retirement savings and insurance organisations. This table shows how that levy was used for consumer protection, regulatory and enforcement activities relating to the products and services these organisations offer, and for the Superannuation Complaints Tribunal.

| Activity | This year \$m | Last year \$m |
|--|---------------|---------------|
| Consumer protection and policy formulation | 4.1 | 4.3 |
| Investigation and enforcement | 7.3 | 5.5 |
| ASIC sub-total | 11.4 | 9.8 |
| Superannuation Complaints Tribunal | 3.3 | 3.1 |
| Grand total | 14.7 | 12.9 |

See page 28 for our consumer protection activities and page 14 for our enforcement activities.

six year summary

| | 2003-04 | 2002-03 | 2001-02 | 2000-01 | 1999-2000 | 1998-99 |
|---|------------|------------|-----------|-----------|-----------|-----------|
| Business data | | | | | | |
| Companies (total) | 1,359,305 | 1,299,985 | 1,251,237 | 1,224,207 | 1,195,851 | 1,149,297 |
| New companies incorporated | 122,441 | 107,917 | 90,175 | 76,103 | 105,472 | 98,038 |
| Australian Financial Services licensees* | 3,853 | 626 | 35 | n/a | n/a | n/a |
| Securities dealers* | 309 | 1,880 | 2,302 | 2,250 | 2,081 | 1,833 |
| Investment advisers* | 82 | 194 | 223 | 224 | 224 | 231 |
| Futures brokers* | 22 | 95 | 119 | 121 | 120 | 108 |
| Futures advisers* | 39 | 63 | 74 | 70 | 65 | 64 |
| General insurance brokers* | 88 | 800 | 977 | 975 | 1,043 | n/a |
| Life insurance brokers* | 19 | 228 | 293 | 263 | 225 | n/a |
| Foreign insurance agents* | 1 | 13 | 17 | 14 | 12 | n/a |
| Registered managed investment schemes | 3,765 | 3,487 | 3,265 | 2,778 | 2,512 | 428 |
| Prospectuses lodged† | 1,148 | 1,658 | 2,089 | 2,744 | 1,033 | 707 |
| Product disclosure 'in use' notices lodged‡ | 7,563 | 579 | n/a | n/a | n/a | n/a |
| Takeovers lodged | 67 | 55 | 67 | 81 | 81 | 73 |
| ASIC performance data | | | | | | |
| Criminals jailed | 28 | 29 | 19 | 25 | 25 | 22 |
| \$ millions in capital raisings requiring additional disclosure, compensation orders or assets frozen | 4,216 | 506 | 401 | 530 | n/a | n/a |
| % successful litigation†† | 93% | 94% | 92% | 71% | 75% | 89% |
| Litigation concluded | 220 | 222 | 205 | 150 | 173 | 154 |
| Total searches of ASIC databases | 13,437,405 | 10,997,500 | 9,095,600 | 7,260,700 | 5,702,200 | 4,057,000 |
| % company data lodged on time | 92% | 93% | 93% | 93% | 94% | 93% |
| Financial summary (\$m) | | | | | | |
| <i>Operations</i> | | | | | | |
| Total operating expenses | 196.2 | 172.6 | 159.9 | 143.3 | 143.0 | 145.2 |
| Total operating revenue | 191.3 | 172.5 | 154.3 | 144.2 | 140.2 | 146.7 |
| Fees and charges raised for the Commonwealth | 457.0 | 405 | 379 | 363 | 360 | 339 |
| <i>Financial position</i> | | | | | | |
| Current assets | 23.0 | 15.6 | 20.5 | 15.1 | 12.2 | 12.1 |
| Non-current assets | 35.1 | 33.2 | 27.1 | 22.1 | 24.9 | 25.6 |
| Current liabilities | 42.9 | 29.0 | 27.3 | 18.6 | 21.7 | 17.1 |
| Non-current liabilities | 20.2 | 20.9 | 21.2 | 16.4 | 16.6 | 18.9 |
| Total equity | (4.9) | (1.0) | (0.9) | 2.2 | (1.1) | 1.7 |

* AFS licences are now the only valid licence for financial services businesses, replacing all other asterisked categories (which were counted at 10 March 2004, their last day of validity).

† From 11 March 2002 'product disclosure statements' replaced 'prospectuses' for managed funds. After 11 March 2004 prospectuses were used only for company securities.

‡ Financial product issuers notify ASIC about the 'product disclosure statement' issued for each financial product.

†† 1999-2000 and 1998-99 may understate success rate.

financial statements

for the year ended 30 June 2004

Contents for the financial statements

| | Page |
|--|-------------|
| Independent Audit Report | 62 |
| Statement by Commissioners and Chief Financial Officer | 64 |
| Statement of financial performance | 65 |
| Statement of financial position | 66 |
| Statement of cash flows | 67 |
| Schedule of contingencies | 68 |
| Schedule of commitments | 69 |
| Schedule of administered items | 70 |

Notes to and forming part of the financial statements

| Note | Page | Note | Page |
|-------------|-------------|-------------|-------------|
| 1 | 74 | 22 | 103 |
| 2 | 83 | 23 | 103 |
| 3 | 84 | 24 | 104 |
| 4 | 85 | 25 | 107 |
| 5 | 87 | 26 | 108 |
| 6 | 90 | 27 | 109 |
| 7 | 91 | 28 | 110 |
| 8 | 92 | 29 | 110 |
| 9 | 93 | 30 | 110 |
| 10 | 96 | 31 | 110 |
| 11 | 96 | 32 | 111 |
| 12 | 97 | 33 | 111 |
| 13 | 98 | 34 | 112 |
| 14 | 99 | 35 | 112 |
| 15 | 99 | 36 | 113 |
| 16 | 100 | 37 | 113 |
| 17 | 101 | 38 | 115 |
| 18 | 101 | 39 | 116 |
| 19 | 102 | | |
| 20 | 103 | | |
| 21 | 103 | | |

To the Treasurer

Scope

The financial statements comprise:

- Statement by Commissioners and Chief Financial Officer;
- Statements of Financial Performance, Financial Position and Cash Flows;
- Schedules of Commitments, Contingencies and Administered Items; and
- Notes to and forming part of the Financial Statements

for the Australian Securities and Investments Commission (the Commission) for the year ended 30 June 2004.

The Commissioners are responsible for the preparation and true and fair presentation of the financial report in accordance with the Finance Minister's Orders. This includes responsibility for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial report.

Audit approach

I have conducted an independent audit of the financial statements in order to express an opinion on them to you. My audit has been conducted in accordance with Australian National Audit Office (ANAO) Auditing Standards, which incorporate the Australian Auditing and Assurance Standards, in order to provide reasonable assurance as to whether the financial report is free of material misstatements. The nature of an audit is influenced by factors such as the use of professional judgement, selective testing, the inherent limitations of internal control, and the availability of persuasive rather than conclusive evidence. Therefore, an audit cannot guarantee that all material misstatements have been detected.

While the effectiveness of management's internal controls over financial reporting was considered when determining the nature and extent of our procedures, the audit was not designed to provide assurance on internal controls.

The audit did not involve an analysis of the prudence of business decisions made by the Commissioners or management.

Procedures were performed to assess whether in all material respects the financial statements present fairly, in accordance with the Finance Minister's Orders made under the *Commonwealth Authorities and Companies Act 1997* and the *Financial Management and Accountability Act 1997*, Accounting Standards and other mandatory financial reporting requirements in Australia, a view which is consistent with our understanding of the Commission's performance as represented by the statements of financial performance, financial position and cash flows.

The audit opinion is formed on the basis of these procedures, which included:

- examining, on a test basis, information to provide evidence supporting the amounts and disclosures in the financial report; and
- assessing the appropriateness of the accounting policies and disclosures used and the reasonableness of significant accounting estimates made by the Commission.

Independence

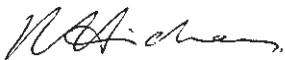
In conducting the audit, I have followed the independence requirements of the ANAO, which incorporate Australian professional ethical pronouncements.

Audit Opinion

In my opinion the financial statements:

- (i) have been prepared in accordance with Finance Minister's Orders made under the *Commonwealth Authorities and Companies Act 1997* and the *Financial Management and Accountability Act 1997* and applicable Accounting Standards; and
- (ii) give a true and fair view of the matters required by applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Finance Minister's Orders, the financial position of the Australian Securities and Investments Commission as at 30 June 2004, and its financial performance and cash flows for the year then ended.

Australian National Audit Office



P Hinchey
Senior Director
Delegate of the Auditor-General

Sydney
23 July 2004

statement by commissioners and chief financial officer

In our opinion, the attached financial statements for the year ended 30 June 2004 have been prepared based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the Commonwealth Authorities and Companies Act 1997 and the Financial Management and Accountability Act 1997.

In our opinion, at the date of this statement, there are reasonable grounds to believe that ASIC will be able to pay its debts as and when they become due and payable.

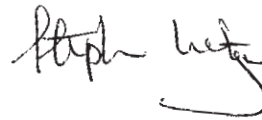
This Statement is made in accordance with a resolution of the Commission members.



J. J. Lucy
Chairman
23 July 2004



B. J. Collier
Commissioner
23 July 2004



S. D. Lutze
Chief Financial Officer
23 July 2004

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

statement of financial performance

for the year ended 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|-------|----------------|----------------|
| REVENUE | | | |
| Revenues from ordinary activities | | | |
| Revenues from Government | 4A,5B | 183,285 | 162,832 |
| Sale of services | 4B | 3,603 | 2,782 |
| Interest | 4C | 2,043 | 2,094 |
| Revenue from sale of assets | 4D | 11 | 69 |
| Other revenues | 4E | 2,396 | 4,718 |
| Revenues from ordinary activities | | 191,338 | 172,495 |
| EXPENSE | | | |
| Expenses from ordinary activities (excluding borrowing costs expense) | | | |
| Employees | 6A | 116,465 | 96,919 |
| Suppliers | 6B | 66,066 | 62,557 |
| Depreciation and amortisation | 6C | 12,836 | 12,317 |
| Write-down of assets | 6D | 99 | 185 |
| Value of assets disposed | 6E | 87 | 70 |
| Expenses from ordinary activities (excluding borrowing costs expense) | | 195,553 | 172,048 |
| Borrowing costs expense | 7 | 605 | 559 |
| Net deficit | 13,14 | (4,820) | (112) |
| Increase in accumulated results on application of the transitional provisions in accounting standard AASB 1041 | | | |
| Revaluation of Non-current Assets | 9D,13 | 925 | - |
| Total valuation adjustments recognised directly in equity | | 925 | - |
| Total changes in equity other than those resulting from transactions with the Australian Government as owner | | (3,895) | (112) |

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

statement of financial position

as at 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|---------|----------------|----------------|
| ASSETS | | | |
| Financial assets | | | |
| Cash | 8A | 10,850 | 11,188 |
| Receivables | 8B | 10,163 | 3,375 |
| Total financial assets | | 21,013 | 14,563 |
| Non-financial assets | | | |
| Leasehold improvements | 9A | 10,969 | 12,133 |
| Plant and equipment | 9B | 12,017 | 12,930 |
| Intangibles | 9C | 12,158 | 8,200 |
| Other non-financial assets | 9E | 1,970 | 1,036 |
| Total non-financial assets | | 37,114 | 34,299 |
| TOTAL ASSETS | | 58,127 | 48,862 |
| LIABILITIES | | | |
| Interest bearing liabilities | | | |
| Leases | 10 | 9,496 | 11,364 |
| Total interest bearing liabilities | | 9,496 | 11,364 |
| Provisions | | | |
| Employees | 11 | 34,466 | 27,637 |
| Total provisions | | 34,466 | 27,637 |
| Payables | | | |
| Suppliers | 12A | 9,719 | 6,767 |
| Other payables | 12B | 9,371 | 4,126 |
| Total payables | | 19,090 | 10,893 |
| TOTAL LIABILITIES | | 63,052 | 49,894 |
| NET LIABILITIES | | (4,925) | (1,032) |
| EQUITY | | | |
| Contributed equity | 13 | 2 | - |
| Reserves | 13 | 5,254 | 5,254 |
| Accumulated deficit | 13 | (10,181) | (6,286) |
| TOTAL EQUITY | 3,13,38 | (4,925) | (1,032) |
| Current assets | | 22,983 | 15,599 |
| Non-current assets | | 35,144 | 33,263 |
| Current liabilities | | 42,899 | 29,031 |
| Non-current liabilities | | 20,153 | 20,863 |

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

statement of cash flows

for the year ended 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|--|-------|----------------|-----------------|
| OPERATING ACTIVITIES | | | |
| Cash received | | | |
| Appropriations | 5B | 186,132 | 160,775 |
| Services | | 3,874 | 3,234 |
| Interest | | 2,043 | 2,094 |
| GST recovered from ATO | | 5,395 | 6,953 |
| Other | | 3,976 | 4,021 |
| Total cash received | | 201,420 | 177,077 |
| Cash used | | | |
| Employees | | 109,634 | 96,208 |
| Suppliers | | 73,136 | 68,905 |
| Borrowing costs | | 605 | 559 |
| Return of appropriation to Government | 5B | 3,000 | 794 |
| Total cash used | | 186,375 | 166,466 |
| Net cash from operating activities | 14 | 15,045 | 10,611 |
| INVESTING ACTIVITIES | | | |
| Cash received | | | |
| Proceeds from sales of property, plant and equipment | 4D | 11 | 69 |
| Total cash received | | 11 | 69 |
| Cash used | | | |
| Purchase of property, plant and equipment | 9D | 9,845 | 11,066 |
| Total cash used | | 9,845 | 11,066 |
| Net cash used by investing activities | | (9,834) | (10,997) |
| FINANCING ACTIVITIES | | | |
| Cash received | | | |
| Appropriations - contributed equity | 13 | 2 | - |
| Cash used | | | |
| Repayment of finance lease principal | | 5,551 | 4,972 |
| Total cash used | | 5,551 | 4,972 |
| Net cash used by financing activities | | (5,549) | (4,972) |
| Net decrease in cash held | | (338) | (5,358) |
| Cash at the beginning of the reporting period | | 11,188 | 16,546 |
| Cash at the end of the reporting period | 8A | 10,850 | 11,188 |

The above statement should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
schedule of contingencies

as at 30 June 2004

Contingent Liabilities and Assets

Contingent liabilities

There were no quantifiable contingent liabilities as at 30 June 2004 (2003: nil) note 16 refers.

Contingent assets

There were no quantifiable contingent assets as at 30 June 2004 (2003: nil) note 16 refers.

Schedule of unquantifiable contingent liabilities/assets

Details of each class of contingent liabilities and assets which cannot be quantified or are considered remote, are disclosed in Note 16: Contingent Liabilities and Assets.

The above schedule should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

schedule of commitments

as at 30 June 2004

| | 2004 \$'000 | 2003 \$'000 |
|--|----------------|----------------|
| BY TYPE | | |
| Capital commitments | | |
| Plant and equipment ¹ | 39 | 102 |
| Total capital commitments | 39 | 102 |
| Other commitments | | |
| Operating leases ² | 110,632 | 119,941 |
| Other commitments (goods and services) | 237 | 179 |
| Total other commitments | 110,869 | 120,120 |
| Commitments receivable ³ | (8,134) | (8,185) |
| Net commitments | 102,774 | 112,037 |
| BY MATURITY | | |
| Capital commitments | | |
| One year or less | 39 | 102 |
| Total capital commitments | 39 | 102 |
| Operating lease commitments | | |
| One year or less | 28,486 | 20,660 |
| From one to five years | 69,641 | 73,833 |
| Over five years | 12,505 | 25,448 |
| Total operating lease commitments | 110,632 | 119,941 |
| Other commitments | | |
| One year or less | 237 | 179 |
| Total other commitments | 237 | 179 |
| Commitments receivable | (8,134) | (8,185) |
| Net commitments by maturity | 102,774 | 112,037 |

Note:

¹ Outstanding contractual payments for purchases of plant and equipment

² Operating leases included are effectively non-cancellable and comprise:

| <i>Nature of lease</i> | <i>General description of leasing arrangement</i> |
|------------------------------------|--|
| Leases for office accommodation | Subject to annual or bi-annual rental reviews |
| Motor vehicles - senior executives | No contingent rentals exist There are no purchase options available to ASIC |
| Office equipment | No contingent rentals exist There are no purchase options available to ASIC |

³ Commitments receivable consist of GST recoverable in respect of operating leases. All commitments are GST inclusive.

The above schedule should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

schedule of administered items

| | Notes | 2004 \$'000 | 2003 \$'000 |
|--|-------|----------------|----------------|
| Revenues Administered on Behalf of Government | | | |
| for the year ended 30 June 2004 | | | |
| Non-taxation | | | |
| Other revenue | 25 | 25 | 25 |
| Interest | 25 | 47 | 150 |
| Non-taxation revenue | 25 | 493,160 | 431,162 |
| Total Revenues Administered on Behalf of Government | | 493,232 | 431,337 |
| Expenses Administered on Behalf of Government | | | |
| for the year ended 30 June 2004 | | | |
| Write-down and impairment of assets | 26 | 23,367 | 7,538 |
| Other expenses | 26 | 18,067 | 19,326 |
| Total Expenses Administered on Behalf of Government | | 41,434 | 26,864 |

ASIC's functions in administering revenues and expenses on behalf of the Government are described below:

1. ASIC collects and administers revenue under the Corporations Act 2001 and prescribed fees set by the Corporations (Fees) Regulations. The revenues from these fees are not available to ASIC and are remitted to the Consolidated Revenue Fund (CRF).
2. ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. Monies from banking and deposit taking institution accounts that remain inactive for seven years are transferred to the Commonwealth, and are deposited into the CRF.
3. ASIC also has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. Monies in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth and are deposited into the CRF.

Note: Intra Government transactions have been omitted.

The above schedule should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

schedule of administered items (continued)

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|-------|----------------|----------------|
| Assets Administered on Behalf of Government | | | |
| as at 30 June 2004 | | | |
| Financial assets (current) | | | |
| Cash | 27 | 3,792 | 5,378 |
| Receivables | 27 | 62,777 | 11,061 |
| Accrued revenue - Corporations Act | 27 | - | 7,591 |
| Total assets administered on behalf of Government | | 66,569 | 24,030 |
| Liabilities Administered on Behalf of Government | | | |
| as at 30 June 2004 | | | |
| Payables (current) | | | |
| Payables | 28 | 5,709 | 8,170 |
| Total liabilities administered on behalf of Government | | 5,709 | 8,170 |
| Net assets administered on behalf of Government | 29 | 60,860 | 15,860 |
| Note: Intra Government transactions have been omitted. | | | |
| Administered Cash Flows | | | |
| for the year ended 30 June 2004 | | | |
| Operating activities | | | |
| Cash received | | | |
| - Corporations Act fees and charges | | 390,071 | 405,275 |
| - Banking Act unclaimed monies | | 30,754 | 21,240 |
| - Life Insurance Act unclaimed monies | | 4,791 | 4,818 |
| Total cash received | | 425,616 | 431,333 |
| Cash used | | | |
| Cash to Consolidated Revenue Fund from: | | | |
| - Corporations Act fees and charges | | 390,617 | 403,699 |
| - Banking Act unclaimed monies | | 31,474 | 21,147 |
| - Life Insurance Act unclaimed monies | | 5,111 | 4,562 |
| Total cash used | 30 | 427,202 | 429,408 |
| Net cash from / (used in) operating activities | | (1,586) | 1,925 |
| Net increase / (decrease) in cash held | | | |
| Cash at the beginning of the reporting period | | 5,378 | 3,453 |
| Cash at the end of the reporting period | 27 | 3,792 | 5,378 |

The above schedule should be read in conjunction with the accompanying notes.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

schedule of administered items (continued)

Administered Commitments

as at 30 June 2004

There were no administered commitments as at 30 June 2004 (2003: nil).

Administered Contingencies

as at 30 June 2004

Contingent liabilities

Banking Act administration

Monies from bank and deposit taking institution accounts inactive for seven years are transferred to the Commonwealth and are deposited into the CRF. A contingent liability of \$37,690,484 (2003: \$71,692,565) exists, and represents an estimate of future claims for repayment, where the validity of the claim has been established by the relevant institution.

The estimate of future claims for repayment was determined by an independent actuary (Towers Perrin) at 31 March 2004. As a consequence of this actuarial assessment, the contingent liability has been revised downwards.

Life Insurance Act administration

Monies in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the CRF. A contingent liability of \$5,339,151 (2003: \$5,905,280) exists, and represents an estimate of future claims for repayment, where the validity of the claim has been established by the relevant institution.

The estimate of future claims for repayment was determined by an independent actuary (Towers Perrin) at 31 March 2004.

Contingent assets

There were no administered contingent assets as at 30 June 2004 (2003: nil).

Unquantifiable contingent liabilities - Corporations Act administration

Companies Unclaimed Monies Account

An administered unquantifiable contingent liability exists in relation to monies that may be refunded to bona fide claimants out of Companies Unclaimed Monies where those monies have been paid into the CRF pursuant to section 1341 of the Corporations Act 2001 after the statutory period of six years has elapsed.

It is not possible to quantify this contingent liability.

The above schedule should be read in conjunction with the accompanying notes.

notes to and forming part of the financial statements

for the year ended 30 June 2004

Notes to and forming part of the financial statements

| Note | Page | Note | Page |
|------|------|------|------|
| 1 | 74 | 22 | 103 |
| 2 | 83 | 23 | 103 |
| 3 | 84 | 24 | 104 |
| 4 | 85 | 25 | 107 |
| 5 | 87 | 26 | 108 |
| 6 | 90 | 27 | 109 |
| 7 | 91 | 28 | 110 |
| 8 | 92 | 29 | 110 |
| 9 | 93 | 30 | 110 |
| 10 | 96 | 31 | 110 |
| 11 | 96 | 32 | 111 |
| 12 | 97 | 33 | 111 |
| 13 | 98 | 34 | 112 |
| 14 | 99 | 35 | 112 |
| 15 | 99 | 36 | 113 |
| 16 | 100 | 37 | 113 |
| 17 | 101 | 38 | 115 |
| 18 | 101 | 39 | 116 |
| 19 | 102 | | |
| 20 | 103 | | |
| 21 | 103 | | |

notes to and forming part of the financial statements

for the year ended 30 June 2004

1 Summary of significant accounting policies

1.1 Objectives of the Australian Securities and Investments Commission

The Australian Securities and Investments Commission (ASIC) is an independent Commonwealth government body operating under the Australian Securities and Investments Commission Act 2001 (ASIC Act) to administer the Corporations Act 2001, and other legislation, throughout Australia.

ASIC is subject to the Commonwealth Authorities and Companies Act 1997 by virtue of section 7 of that Act, and also subject to the Financial Management and Accountability Act 1997 in respect of the public money that it holds pursuant to Schedule 1 Part 2 of the Financial Management and Accountability Regulations.

ASIC's objectives includes the promotion of the confident and informed participation of investors and consumers in the financial system.

ASIC collects and administers revenue under the Corporations Act 2001 and prescribed fees set by the Corporations (Fees) Regulations (Note 1.3 refers).

1.2 Basis of accounting

The financial statements are required by clause 1(B) of Schedule 1 to the Commonwealth Authorities and Companies Act 1997 (referred to as Schedule 1 in this financial report) and Section 49 of the Financial Management and Accountability Act 1997 and are a general purpose financial report.

The statements comply with:

- accounting standards and accounting interpretations that apply for the reporting period issued by:
 - (i) the Australian Accounting Standards Board (established under section 226 of the Australian Securities and Investments Commission Act 2001); and
 - (ii) the former Public Sector Accounting Standards Board, unless superseded by standards and interpretations of the Australian Accounting Standards Board.
- the Consensus Views issued by the Urgent Issues Group (UIG) that apply for the reporting period.

The statements have been prepared having regard to:

- the Explanatory Notes to Schedule 1;
- the Estimates Memoranda, FinanceBriefs, Finance Circulars, Financial Management Guidelines and other guidance/policies issued by the Department of Finance and Administration; and
- the Statements of Accounting Concepts.

1.2 Basis of accounting (continued)

The financial statements for ASIC have been prepared on an accrual basis and are in accordance with the historical cost convention, except for certain assets which, as noted, are at valuation. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position of ASIC.

Assets and liabilities are recognised in the Statement of Financial Position when and only when it is probable that future economic benefits will flow and the amounts of the assets or liabilities can be reliably measured. Assets and liabilities arising under agreements equally proportionately unperformed are however not recognised unless required by an Accounting Standard. Liabilities and assets, which are unrecognised, are reported in the Schedule of Commitments and the Schedule of Contingencies, other than unquantifiable or remote contingencies, which are reported at Note 16.

Revenues and expenses are recognised in the Statement of Financial Performance when and only when the flow or consumption or loss of economic benefits have occurred and can be reliably measured.

1.3 Reporting of administered activities

ASIC collects and administers revenue under the Corporations Act 2001 and prescribed fees set by the Corporations (Fees) Regulations. The revenues from these fees are not available to ASIC and are remitted to the Consolidated Revenue Fund (CRF). Transactions and balances relating to these fees are reported as Administered Items.

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where otherwise stated at Note 1.6, Administered Items are accounted for on the same basis and using the same policies as for ASIC items, including the application of Accounting Standards, Accounting Interpretations and UIG Consensus Views.

Administered revenues transferred or transferable to the CRF are not reported as administered expenses or payables. These transactions or balances are internal to the Administered entity.

These transfers of cash are reported as administered (operating) cash flows and in the administered reconciliation table in Note 29.

Administered items are distinguished by shading.

1.4 Changes in accounting policy

Changes in accounting policy have been identified in this note under their appropriate headings.

1.5 Reporting by outcomes

ASIC's financial result reported in the context of the Government's outcomes and outputs framework is disclosed in Note 39.

Any intra-government costs included in the figure 'net cost to Budget outcomes' are eliminated in calculating the actual budget outcome for the Government overall.

notes to and forming part of the financial statements

for the year ended 30 June 2004

1 Summary of significant accounting policies (continued)

1.6 Revenue

Revenues from Government - output appropriations

The full amount of the appropriation for departmental outputs is recognised as revenue in the year of appropriation, with the exception of appropriations for specific government initiatives that are conditional on any unspent balance being returned to Government. Such appropriations are initially recognised as Unearned Revenue - Government Appropriation until expenditure is incurred (Note 12B refers).

Where the full amount of the appropriation for the year has not been drawn down an Appropriation Receivable is disclosed. In 2003-04 ASIC is, for the first time, recognising an appropriation receivable relating to the HIH Task Force (Note 8B refers).

Revenues from Government are disclosed in the Statement of Financial Performance (Note 4A refers).

Resources received free of charge

Services received free of charge are recognised as revenue when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense. Resources received free of charge are combined with the revenues from Government for the purposes of presentation (Note 25 refers).

Going concern

ASIC is a statutory body and prepares its financial statements on a going concern basis, which assumes that it is able to extinguish its liabilities as they arise through the normal level of appropriations it receives from Government, and where necessary, by seeking an advance from the Minister for Finance or a capital injection.

Other revenue

Revenue from independent sources is mainly comprised of bank interest, business names receipts relating to the administration of the business names register, fees charged for the administration of the companies unclaimed money account, recoveries of both legal costs and prosecution disbursements.

Revenue from the sale of services is recognised upon the delivery of services to customers.

Interest revenue is recognised on a proportional basis taking into account the interest rates applicable to the financial assets.

Revenue from the disposal of non-current assets is recognised when control of the asset has passed to the buyer.

Administered revenue

(i) Definition

Revenues and related assets are considered to arise when the Government, through the application of legislation by ASIC, gains control of the future economic benefits that flow from prescribed fees and other statutory charges.

Administered revenues are disclosed in the note on Revenues Administered on Behalf of Government (Note 25 refers).

(ii) Recognition

The revenues of the Commonwealth, when administered by ASIC, are recognised (on an accruals basis) when the following conditions apply:

- the client or the client group can be identified in a reliable manner;
- an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions; and
- the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Statutory revenue arising from services rendered by ASIC under the Corporations Act 2001 is collected and deposited in the CRF on behalf of the Commonwealth.

Statutory revenue comprises annual review fees (2003: fees for the lodgement of annual returns) and other fees prescribed in the Corporations (Fees) Regulations and voluntary enquiries from clients for microfiche, certificates and document images.

As a consequence of a legislative change introduced by the Government under Part 7 of the Corporate Law Economic Reform Program (CLERP 7), effective from 1 July 2003, all registered companies and schemes will incur an annual review fee on each anniversary of the date of incorporation or registration. The quantum of the fee is prescribed in the Corporations (Fees) Regulations. This is a change from previous years in which revenue was recognised on lodgement of the annual return, with an accrual being made at 30 June each year in respect of registered companies and schemes that had not lodged an annual return.

notes to and forming part of the financial statements

for the year ended 30 June 2004

1 Summary of significant accounting policies (continued)

1.7 Employee benefits

Leave

The provision for employee benefits includes a provision for annual leave, long service leave and accrued employer superannuation contributions. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of ASIC is estimated to be less than the annual entitlement for sick leave.

The liability for annual leave reflects the value of total annual leave benefits of all employees at 30 June 2004 and is recognised at its nominal amount. The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability, in accordance with the provisions of Accounting Standard AASB 1028.

The provision for long service leave has been calculated by using a formula provided by an independent actuary (Mercer Human Resource Consulting) following a review at 30 June 2003. Future actuarial reviews will be undertaken on a five yearly basis. In determining the present value of the liability, attrition rates and future pay increases have been taken into account.

Separation and redundancy

Provision is made for separation and redundancy payments in cases where positions have been formally identified as excess to requirements, and a reliable estimate of the amount payable can be determined.

Superannuation

The majority of employees contribute to the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS). There are also a small number of employees covered under state government and private superannuation schemes. The majority of the employees in the state government superannuation schemes were originally employed by the various state governments and were transferred to ASIC at its inception in 1989.

Details of superannuation payments are disclosed in Note 6A.

1.8 Leases

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of leased non-current assets and operating leases under which the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at the present value of minimum lease payments at the inception of the lease and a liability recognised for the same amount. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Other leases are classified as operating leases.

Operating lease payments are expensed on a basis, which is representative of the pattern of benefits derived from the leased assets. The net present value of future net outlays in respect of surplus space under non-cancellable lease agreements is expensed in the period in which the space becomes surplus.

Lease incentives are recognised as a liability and are reduced by allocating lease payments between rental expense in the Statement of Financial Performance and the deferred lease incentive liability over the term of the lease.

Lease incentives taking the form of rent free holidays are recognised as a liability. This liability is reduced by allocating lease payments between rental expense and reduction of the liability over the term of the lease.

1.9 Borrowing costs

All borrowing costs are expensed as incurred except to the extent that they are directly attributable to qualifying assets, in which case they are capitalised. The amount capitalised in a reporting period does not exceed the amount of costs incurred in that period.

1.10 Cash

For the purpose of the Statements of Cash Flows for both ASIC and Administered items, cash includes deposits held at call with a bank. Cash is recognised at its nominal amount, interest is credited as it accrues.

1.11 Taxation

ASIC is exempt from all forms of taxation except fringe benefits tax and the goods and services tax (GST).

Administered items are exempt from all forms of taxation.

1.12 Acquisition of assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and revenues at their fair value at the date of acquisition.

1.13 Leasehold improvements, plant and equipment

Asset recognition threshold

Purchases of leasehold improvements, plant and equipment are recognised initially at cost in the Statement of Financial Position, except for purchases costing less than \$2,000, which are expensed in the year of acquisition. The \$2,000 threshold was selected because it facilitates efficient asset management and recording without materially affecting asset values recognised. Items of leasehold improvements, plant and equipment acquired free or for a nominal charge are recognised initially at their fair value.

Revaluations

Basis

Leasehold improvements and plant and equipment are carried at valuation. Revaluations undertaken up to 30 June 2002 were made on a deprival basis; revaluations since that date are at fair value. This change in accounting policy is a requirement of AASB 1041 Revaluation of Non-Current Assets.

Assets in each class acquired after the commencement of the year of revaluation are not captured by the revaluation undertaken in that year and are reported at cost.

Assets that would not be replaced, or are surplus to requirements, are valued at net realisable value.

Leasehold improvements

During 2003-04, leasehold improvements were revalued to fair value for the first time measured at written down current cost, which is the lesser of depreciated replacement cost or depreciated reproduction cost.

Depreciated replacement cost is the cost of substitution by an equivalent modern asset, with due allowance for depreciation and obsolescence. Depreciated reproduction cost represents the cost of constructing a replica of the actual asset, with due allowance for depreciation and obsolescence.

notes to and forming part of the financial statements

for the year ended 30 June 2004

1 Summary of significant accounting policies (continued)

1.13 Leasehold improvements, plant and equipment (continued)

AASB 1041 requires that where the fair value basis is initially applied to a class of non-current assets, the resulting increment or decrement is credited or debited directly to retained surplus or accumulated deficit. This treatment has been complied with in the 2003-04 revaluation of leasehold improvements.

The financial effect of this change in accounting policy has been to increase the carrying amount of leasehold improvements by \$924,929 and reduce the accumulated deficit by an equivalent amount.

Plant and equipment

Plant and equipment were last revalued in 2001-02 at deprival value measured at depreciated replacement cost. This class of non-current assets will be revalued to fair value measured at market value in 2004-05.

Frequency

Leasehold improvements and plant and equipment are revalued progressively in successive three-year cycles.

Conduct

The valuation of leasehold improvements and plant and equipment has been performed independently by the Australian Valuation Office.

Depreciation

Depreciable property, plant and equipment assets are written down to their estimated residual values over their estimated useful lives to ASIC using, in all cases, the straight-line method of depreciation. Leasehold improvements are depreciated on a straight-line basis over the lesser of the estimated useful life of the improvements or the unexpired period of the lease.

Depreciation/amortisation rates (useful lives) and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation/amortisation rates applying to each class of depreciable asset are based on the following useful lives:

| | 2004 | 2003 |
|---|----------------------|---------------|
| Leasehold improvements | Lease term | Lease term |
| Plant and equipment | 2 to 10 years | 2 to 10 years |
| Plant and equipment under finance lease | 1 to 5 years | 1 to 5 years |

The aggregate amount of depreciation/amortisation allocated for each class of asset during the reporting period is disclosed in Note 6C.

Impairment of non-current assets

Non-current assets carried at up-to-date fair value at the reporting date are not subject to impairment testing.

Non-current assets carried at cost or deprival value and held to generate net cash inflows have been tested for their recoverable amounts at the reporting date. The test compared the carrying amounts against the net present value of future net cash inflows. At 30 June 2004 ASIC did not have any assets in this category, and no write-down to recoverable amount was required (2003: nil).

The non-current assets carried at cost or deprival value, which are not held to generate net cash inflows, have been assessed for indications of impairment. Where indications of impairment exist, the carrying amount of the asset is compared to its net selling price and depreciated replacement cost and is written down to the higher of the two amounts.

1.14 Intangible assets - computer software

Purchased software

Purchased software is included in non-financial assets, and is classified under Intangibles. Where substantial installation/implementation costs are incurred and can be reliably measured, these costs are added to the purchase price to arrive at the initial value, otherwise purchase price is used.

Internally developed software

Internally developed business systems and enhancements are measured at cost and these costs are held as software under development until the system or component is released to production, at which time it becomes internally developed software and is recorded as an intangible asset.

However Schedule 1 now requires such assets, if carried on the cost basis, to be assessed for indications of impairment. The carrying amount of impaired assets must be written down to the higher of its net market selling price or depreciated replacement cost.

The cost of internally developed software which is capitalised includes the cost of direct labour and other directly attributed costs.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of software is 3 to 5 years (2003: 3 to 5 years).

Any enhancements to an existing asset are amortised over the remaining life of the asset.

1.15 Receivables

ASIC's receivables comprise amounts expected to be received from operating revenue. A provision for doubtful debts is raised in accordance with a policy that reflects actual collection experience.

Provision for doubtful debts

The introduction of legislation by the Government under Part 7 of the Corporate Law Economic Reform Program (CLERP 7) that became operative from 1 July 2003 resulted in a change in revenue recognition. Effective from this date, all registered companies and schemes will incur an annual review fee debt to the Commonwealth on each anniversary of the date of incorporation or registration (Note 1.6 provides further explanation of this change to revenue recognition).

As a consequence, debts were raised for registered companies and schemes that may subsequently be found to be inactive, and for which there is a strong likelihood that the annual review fee will not be received by ASIC.

This change in revenue recognition has therefore necessitated a reappraisal of the basis for calculating the provision for doubtful debts. The portion of the provision at 30 June 2004 relating to the annual review fee includes a specific estimate of debts raised for registered companies and schemes that are inactive together with a further allowance for bad debts that arise in the normal course of business.

1 Summary of significant accounting policies (continued)

1.16 Unclaimed monies - administered items

Banking Act administration

On 1 July 2000 ASIC assumed responsibility for the administration of unclaimed monies from banking and deposit taking institutions.

Monies from bank and deposit taking institution accounts that are inactive for seven years are transferred to the Commonwealth, and are deposited into the CRF.

Life Insurance Act administration

On 1 July 1998 ASIC assumed responsibility for the administration of unclaimed monies from life insurance institutions.

Monies in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the CRF.

1.17 Expenditure of boards and tribunal

Pursuant to Parts 11 and 12 of the Australian Securities and Investments Commission Act 2001, and the Superannuation (Resolution of Complaints) Act 1993, ASIC is required to support various boards and a tribunal to promote activities that enable ASIC to attain its aims. The boards are the Australian Accounting Standards Board and the Companies Auditors and Liquidators Disciplinary Board. The tribunal is the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of these boards and the tribunal are included in the Statement of Financial Performance of ASIC (Note 21 refers).

1.18 Rounding

Amounts have been rounded to the nearest \$1,000 except in relation to the following:

- remuneration of commissioners;
- remuneration of executive officers;
- remuneration of auditors; and
- administered fee write off and waivers.

1.19 Comparative figures

Where necessary, comparative figures have been adjusted to conform with changes in presentation in these financial statements.

1.20 Financial instruments

Accounting policies for financial instruments are stated at Notes 24 and 37.

1.21 Insurance

ASIC has insured for certain risks through the Government's insurable risk managed fund, Comcover. Workers compensation is insured through Comcare Australia.

2 Adoption of Australian Equivalents to International Financial Reporting Standards from 2005-2006

The Australian Accounting Standards Board has issued replacement Australian Accounting Standards to apply from 2005-06. The new standards are the Australian Equivalents to International Financial Reporting Standards (AEIFRS) which are issued by the International Accounting Standards Board. The new standards cannot be adopted early. The standards being replaced are to be withdrawn with effect from 2005-06, but continue to apply in the meantime.

The purpose of issuing AEIFRS is to enable Australian entities reporting under the Corporations Act 2001 to be able to more readily access overseas capital markets by preparing their financial reports according to accounting standards more widely used overseas.

It is expected that the Finance Minister will continue to require compliance with the Accounting Standards issued by the AASB, including the AEIFRS, in his Orders for the Preparation of Agency financial statements for 2005-06 and beyond.

The Australian Equivalents contain certain additional provisions that will apply to not-for-profit entities, including ASIC. Some of these provisions are in conflict with the IFRS and therefore ASIC will only be able to assert compliance with the AEIFRS.

Existing AASB standards that have no IFRS equivalent will continue to apply.

Accounting Standard AASB 1047 Disclosing the impact of Adopting Australian Equivalents to IFRS requires that the financial statements for 2003-04 disclose:

- An explanation of how the transition to the Australian Equivalents is being managed, and
- A narrative explanation of the key differences in accounting policies arising from the transition.

The purpose of this Note is to make these disclosures.

Management of the transition to AEIFRS

ASIC has taken the following steps for the preparation towards the implementation of AEIFRS:

- The Audit Committee is overseeing the transition to and implementation of the AEIFRS on behalf of the Commission. The Chief Financial Officer is formally responsible for the project and reports to the Audit Committee.
- Consultants have been engaged where necessary to assist ASIC in determining the nature and extent of major accounting and disclosure changes.
- To date, all major accounting and disclosure differences have been identified.

ASIC does not anticipate any changes to financial systems will be required to enable compliance with AEIFRS.

Major changes in accounting policy

Changes in accounting policies under AEIFRS are applied retrospectively i.e. as if the new policy had always applied. This rule means that a balance sheet prepared under the AEIFRS must be made as at 1 July 2004, except as permitted in particular circumstances by AASB 1 First-time Adoption of Australian Equivalents to International Financial Reporting Standards. This will also enable the 2005-06 financial statements to report comparatives under AEIFRS.

Changes to major accounting policies are discussed in the following paragraphs.

notes to and forming part of the financial statements

for the year ended 30 June 2004

2 Adoption of Australian Equivalents to International Financial Reporting Standards from 2005-2006 (continued)

Property, plant and equipment

It is expected that the Finance Minister's Orders will require property, plant and equipment assets carried at valuation in 2003-04 to be measured at up-to-date fair value from 2005-06. This differs from the accounting policies currently in place for these assets which, up to and including 2003-04, have been revalued progressively over a 3-year cycle and which currently include assets at cost (for purchases since the commencement of a cycle) and at deprival value (which will differ from their fair value to the extent that they have been measured at depreciated replacement cost when a relevant market selling price is not available).

It is important to note that the Finance Minister's Orders currently requires these assets to be measured at up-to-date fair value as at 30 June 2005. Further, the transitional provisions in AASB 1 will mean that the values at which assets are carried at 30 June 2004 under existing standards will stand in the transitional balance sheet as at 1 July 2004.

It is expected that the adoption of AEIFRS will not result in a material restatement of property, plant and equipment values.

Impairment of non-current assets

ASIC's policy on impairment of non-current assets appears at Note 1.13.

Under AEIFRS, these assets will be subject to an assessment for impairment and, if there are indications of impairment, measurement of any impairment. (Impairment measurement must also be done, irrespective of any indications of impairment, for intangible assets not yet available for use). The impairment test is that the carrying amount of an asset must not exceed the greater of (a) its fair value less costs to sell and (b) its value in use. 'Value in use' is net of the depreciated replacement cost for other assets which would be replaced if ASIC were deprived of them.

The most significant change is that the recoverable amount is only generally to be measured where there is an indication of impairment, and that assets carried at up-to-date fair value may nevertheless be required to be written down if costs to sell are significant. As ASIC currently recognises asset impairment this requirement is not expected to result in a significant restatement of asset values.

3 Economic dependency

ASIC is controlled by the Government of the Commonwealth of Australia, and is dependent on appropriations from the Commonwealth Parliament for its continued existence and ability to carry out its normal activities and functions under the Corporations Act 2001.

The Government has provided ASIC, subsequent to year end, with an equity injection of \$11.3m to address accumulated past year losses (Note 38 refers).

| | Notes | 2004 \$'000 | 2003 \$'000 |
|--|-------|----------------|----------------|
|--|-------|----------------|----------------|

4 Operating revenues

4A Revenues from Government

| | | | |
|---|--------|----------------|---------|
| Appropriation Act No. 1 Operating Expenditure | | 183,169 | 160,447 |
| Appropriation Act No. 3 Operating Expenditure | | 116 | 2,385 |
| Total revenues from government | (i), 5 | 183,285 | 162,832 |

(i) The increase in Appropriations received by ASIC in 2003-04 of \$20.453m is due to specific purpose funding being provided by the Government as follows:

| | | | |
|--|--|----------------|--|
| (a) To establish a dedicated task force to undertake investigations and civil litigation on possible breaches of the Corporations Act 2001 as identified by the HIH Royal Commission | | 7,848 | |
| (b) To implement the Financial Services Reform Act and for its enhanced consumer protection and regulatory roles | | 6,240 | |
| (c) To give effect to the CLERP 9 legislative reforms dealing with inadequate corporate disclosure, and for ASIC to conduct surveillance activities, investigate and take enforcement action in relation to alleged contraventions | | 3,000 | |
| (d) To provide ASIC with resources for targeted surveillance and enforcement actions against companies and their officers who have allowed their companies to trade whilst insolvent | | 3,000 | |
| (e) To increase the funding base of the Superannuation Complaints Tribunal to enable it to meet the increasing demands on its services including a reimbursement of over expenditure relating to prior years | | 2,135 | |
| (f) Finalisation of the activities associated with the HIH Royal Commission | | (2,500) | |
| (g) Other | | 730 | |
| Total increase in appropriation | | 20,453 | |

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|-------|----------------|----------------|
| 4 Operating revenues (continued) | | | |
| 4B Sale of services | | | |
| Sale of services | | 3,603 | 2,782 |
| Total sale of services | | 3,603 | 2,782 |
| Rendering of services to: | | | |
| Commonwealth Government entities | | 1,484 | 1,214 |
| External entities | | 2,119 | 1,568 |
| Total rendering of services | | 3,603 | 2,782 |
| 4C Interest | | | |
| Bank interest | | 2,043 | 2,094 |
| Total interest revenues | | 2,043 | 2,094 |
| 4D Revenue from sale of assets | | | |
| Plant and equipment | | | |
| Proceeds from disposal | 6E | 11 | 69 |
| 4E Other revenues | | | |
| Cost recoveries | (i) | 1,867 | 3,355 |
| Rent of surplus space | | - | 499 |
| Other | (ii) | 529 | 864 |
| Total other revenues | | 2,396 | 4,718 |

(i) Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

(ii) Other revenues includes seminars and royalties.

5 Appropriations

This table reports on appropriations made by the Parliament from the CRF for the year ended 30 June 2004.

| Particulars | Notes | Departmental outputs | |
|-------------|-------|----------------------|----------------|
| | | 2004 \$'000 | 2003 \$'000 |

5A Cash basis acquittal of Appropriations from Acts 1 and 3

Year ended 30 June 2004

| | | | |
|---|----|----------------|---------|
| Balance carried from previous year | | - | - |
| Appropriation Acts 1 and 3 | | 192,784 | 160,775 |
| Appropriations available for payment from CRF | | 192,784 | 160,775 |
| Payments made out of CRF | 5B | 186,132 | 160,775 |
| Balance carried to next year | 5B | 6,652 | - |
| Represented by: | | | |
| Appropriations receivable | 8B | 6,652 | - |

5B Reconciliation of appropriation reported on a cash basis (Note 5A) to the accruals basis as reported in the Statement of Financial Performance

| | | | |
|--|----------|----------------|---------|
| Payments from the CRF | | 186,132 | 160,775 |
| Appropriations receivable | 8B | 6,652 | - |
| less: Unearned appropriation revenue | (i), 12B | (6,499) | - |
| Appropriation returned to the CRF in 2003-04 | (ii) | (3,000) | - |
| Appropriation returned to the CRF in 2002-03 | (iii) | - | (794) |
| Unearned appropriation in 2002 | | - | 2,851 |
| Total revenues from Government | | 183,285 | 162,832 |

- (i) Unspent portion of specific purpose appropriation associated with the HIH Task Force, disclosed as unearned revenue.
- (ii) Specific departmental appropriation to fund ASIC for its costs associated with the HIH Task Force not utilised in 2003-04 and included in departmental appropriation for 2004-05.
- (iii) Unspent portion of specific purpose appropriation received from the Government to fund ASIC for its costs associated with the HIH Royal Commission returned to the CRF in 2002-03.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
notes to and forming part of the financial statements

for the year ended 30 June 2004

5 Appropriations (continued)

5C Acquittal of authority to draw cash from the Consolidated Revenue Fund - special appropriations (unlimited amounts)

| | 2004 | 2003 |
|---|-------------------|------------|
| | Outcome 1 | |
| | \$ | \$ |
| Life Insurance Act 1995 | | |
| Legal authority - Life Insurance Act 1995 | | |
| Purpose - ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. Monies in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth and are deposited into the CRF. | | |
| ASIC receives special appropriations from the CRF (section 216 Life Insurance Act 1995) to refund amounts to life insurance policy holders. | | |
| All transactions under this Act are recognised as Administered Items (Note 26 refers). | | |
| Budget estimate | 3,000,000 | 3,000,000 |
| Payments made | 3,332,726 | 2,760,771 |
| Banking Act 1959 | | |
| Legal authority - Banking Act 1959 | | |
| Purpose - ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. Monies from banking and deposit taking institution accounts that remain inactive for seven years are transferred to the Commonwealth, and are deposited into the CRF. | | |
| ASIC receives special appropriations from the CRF (section 69 Banking Act 1959) to refund amounts to banking and deposit taking institution account holders. | | |
| All transactions under this Act are recognised as Administered Items (Note 26 refers). | | |
| Budget estimate | 18,000,000 | 18,025,000 |
| Payments made | 14,708,934 | 16,540,285 |

5 Appropriations (continued)

5C Acquittal of authority to draw cash from the Consolidated Revenue Fund - special appropriations (unlimited amounts) (continued)

| | 2004 | 2003 |
|--|------------------|-----------|
| | Outcome 1 | |
| | \$ | \$ |
| Corporations Act 2001 | | |
| Legal authority - Corporations Act 2001 | | |
| Purpose - ASIC has responsibility for the administration of unclaimed monies from the Companies Unclaimed Monies Account. Monies that are not claimed within six years are transferred to the Commonwealth (section 1341 Corporations Act 2001), and are deposited into the CRF. | | |
| Refunds are appropriated under section 28 of the FMA Act. | | |
| All transactions under this Act are recognised as Administered Items (Note 32 refers). | | |
| Budget estimate | - | - |
| Payments made | 176,470 | 110,464 |
| Corporations Act 2001 | | |
| Legal authority - Corporations Act 2001 | | |
| Purpose - ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the CRF as received. | | |
| Refunds of overpayments are appropriated by Appropriation Act No. 1. | | |
| All transactions under this Act are recognised as Administered Items. | | |
| Budget estimate | 3,000,000 | 4,000,000 |
| Payments made | 3,055,133 | 4,668,979 |

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|--|-------|----------------|----------------|
| 6 Operating expenses | | | |
| 6A Employees | | | |
| Salaries | | 91,182 | 76,857 |
| Superannuation | (i) | 12,361 | 10,459 |
| Leave and other entitlements | | 11,539 | 9,046 |
| Separation and redundancy | (ii) | 620 | 797 |
| Reversal of provision for long service leave | (iii) | - | (700) |
| <i>Total employees benefits expense</i> | | 115,702 | 96,459 |
| Workers compensation premiums | | 763 | 460 |
| Total employees expenses | | 116,465 | 96,919 |

- (i) Contributions to superannuation schemes are at rates calculated to cover existing and emerging obligations. The employer contribution rate for the Commonwealth Superannuation Scheme (CSS) was 24.3% (2003: 17.7%), the Public Sector Superannuation Scheme (PSS) was 11.4% (2003: 10.5%), and the average superannuation productivity benefit was 3% (2003: 3%).
- (ii) Redundancy expenses are calculated on the basis of two weeks pay for every year of service by employees made redundant, up to a maximum of 48 weeks.
- (iii) ASIC's provision for long service leave at 31 December 2002 was determined by reference to a review undertaken by an independent actuary (Mercer Human Resource Consulting, M. A. Stevenson FIAA). As a result of this review, it was necessary to reduce the provision at 30 June 2003 by \$700,268.

6B Suppliers

| | | | |
|--|-----|---------------|--------|
| Services from Commonwealth Government entities | | 5,774 | 5,770 |
| Services from external entities | | 45,495 | 42,640 |
| Operating lease rentals | (i) | 14,797 | 14,147 |
| Total suppliers expenses | | 66,066 | 62,557 |

- (i) These comprise minimum lease payments only.

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|-------|----------------|----------------|
| 6 Operating expenses (continued) | | | |
| 6C Depreciation and amortisation | | | |
| <i>Depreciation of plant and equipment</i> | | | |
| Plant and equipment owned | | 750 | 1,243 |
| Assets subject to a finance lease | | 5,633 | 5,095 |
| <i>Total depreciation</i> | | 6,383 | 6,338 |
| <i>Amortisation</i> | | | |
| Computer software | | 3,649 | 2,987 |
| Leasehold improvements | | 2,804 | 2,992 |
| <i>Total amortisation</i> | | 6,453 | 5,979 |
| Total depreciation and amortisation | 9D | 12,836 | 12,317 |
| 6D Write-down of assets | | | |
| Bad and doubtful debts expense | | 27 | - |
| Plant and equipment and intangibles (computer software) - write-off | | 72 | 185 |
| Total write-down of assets | | 99 | 185 |
| 6E Net loss from sales of assets | | | |
| <i>Plant and equipment:</i> | | | |
| Proceeds from disposal | | (11) | (69) |
| Net book value of assets disposed | | 87 | 70 |
| Net loss from disposal of plant and equipment | | 76 | 1 |
| 7 Borrowing costs expense | | | |
| Finance charges on lease liabilities | | 605 | 559 |

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|--|-------|----------------|----------------|
| 8 Financial assets | | | |
| 8A Cash | | | |
| Cash at bank and on hand | | 7,432 | 6,023 |
| Cash on deposit | | 3,418 | 5,165 |
| Total cash | | 10,850 | 11,188 |
| Balance of cash as at 30 June shown in the Statement of Cash Flows | | 10,850 | 11,188 |
| 8B Receivables | | | |
| Trade debtors | | 1,478 | 2,798 |
| Less: Provision for doubtful debts | | (55) | (33) |
| | | 1,423 | 2,765 |
| GST receivable | | 2,088 | 610 |
| Appropriations receivable | (i) | 6,652 | - |
| Total receivables (net) | | 10,163 | 3,375 |
| All receivables are current assets. | | | |
| (i) HIH Task Force appropriation not drawn down at 30 June 2004. | | | |
| Receivables (gross) are aged as follows: | | | |
| Not overdue | | 10,126 | 3,242 |
| Overdue by: | | | |
| Less than 30 days | | 27 | 12 |
| 30 to 60 days | | 4 | 53 |
| More than 90 days | | 61 | 101 |
| | | 92 | 166 |
| Total receivables (gross) | | 10,218 | 3,408 |
| The provision for doubtful debts is aged as follows: | | | |
| Overdue by: | | | |
| More than 90 days | | 55 | 33 |
| Total provision for doubtful debts | | 55 | 33 |

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|-----------|----------------|----------------|
| 9 Non-financial assets | | | |
| 9A Leasehold improvements | | | |
| <i>Leasehold improvements</i> | | | |
| - at cost | | 961 | 10,285 |
| Accumulated amortisation | | (154) | (2,253) |
| | | 807 | 8,032 |
| - at 2004 valuation (fair value) | (i),(iii) | 28,180 | - |
| Accumulated amortisation | | (18,018) | - |
| | | 10,162 | - |
| - at 2001 valuation (deprival) | (i),(iii) | - | 16,660 |
| Accumulated amortisation | | - | (12,559) |
| | | - | 4,101 |
| Total leasehold improvements (non-current) | | 10,969 | 12,133 |

9B Plant and equipment

| | | | |
|--|-------|---------------|---------|
| <i>Plant and equipment</i> | | | |
| - at cost | | 3,625 | 1,714 |
| Accumulated depreciation | | (802) | (406) |
| | | 2,823 | 1,308 |
| - finance lease | (ii) | 19,314 | 17,762 |
| Accumulated depreciation | | (10,352) | (6,848) |
| | | 8,962 | 10,914 |
| - at valuation 2002 (deprival) | (iii) | 6,144 | 9,492 |
| Accumulated depreciation | | (5,912) | (8,784) |
| | | 232 | 708 |
| Total plant and equipment (non-current) | | 12,017 | 12,930 |

- (i) The revaluation of leasehold improvements was performed on 1 July 2003 in accordance with the progressive revaluation policy stated at Note 1.13 by an independent valuer from the Australian Valuation Office (Simon B. O'Leary AAPI MSAA).
- (ii) This amount is the present value of the minimum lease payments capitalised in accordance with ASIC's accounting policy Note 1.8.
- (iii) In accordance with the requirements of Schedule 1 to the Commonwealth Authorities and Companies Act 1997, all revalued assets are shown on a gross basis. Asset values are at deprival value for revaluations undertaken up to 30 June 2002, and accumulated depreciation has been calculated based on this value. Revaluations undertaken subsequent to 30 June 2002 are at fair value and accumulated depreciation has been calculated based on this value. The resulting increment of \$924,929 has been transferred directly to accumulated deficit (Note 13 refers).

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | 2004 \$'000 | 2003 \$'000 |
|---|-----------------|----------------|
| 9 Non-financial assets (continued) | | |
| 9C Intangibles | | |
| Computer software: | | |
| Internally developed - in progress | 687 | 102 |
| | 687 | 102 |
| Internally developed - in use | 23,279 | 19,482 |
| Accumulated amortisation | (11,808) | (11,384) |
| | 11,471 | 8,098 |
| Total intangibles (non-current) | 12,158 | 8,200 |

9D Analysis of property, plant and equipment

TABLE A - Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment, and intangibles.

| Item | Notes | Buildings - Leasehold Improvements \$'000 | Plant and Equipment \$'000 | Intangibles - Computer software \$'000 | TOTAL \$'000 |
|---------------------------------------|-------|--|----------------------------------|---|-----------------|
| As at 1 July 2003 | | | | | |
| Gross book value | | 26,945 | 28,968 | 19,584 | 75,497 |
| Accumulated depreciation/amortisation | | (14,812) | (16,038) | (11,384) | (42,234) |
| Net book value | | 12,133 | 12,930 | 8,200 | 33,263 |
| Additions | | | | | |
| by purchase (i) | | 715 | 1,943 | 7,610 | 10,268 |
| by finance lease | 15 | - | 3,683 | - | 3,683 |
| Net revaluation increment | 13 | 925 | - | - | 925 |
| Depreciation/amortisation expense | | (2,804) | (6,383) | (3,649) | (12,836) |
| Write-offs: cost/valuation | | - | (2,309) | (3,228) | (5,537) |
| Write-offs: provision | | - | 2,240 | 3,225 | 5,465 |
| Disposals: (ii) | | | | | |
| Disposals: cost/valuation | | - | (3,202) | - | (3,202) |
| Disposals: provision | | - | 3,115 | - | 3,115 |
| As at 30 June 2004 | | | | | |
| Gross book value | | 29,141 | 29,083 | 23,966 | 82,190 |
| Accumulated depreciation/amortisation | | (18,172) | (17,066) | (11,808) | (47,046) |
| Net book value | | 10,969 | 12,017 | 12,158 | 35,144 |

(i) Included in the total of \$10,267,749 are accruals of \$422,809, and cash payments of \$9,844,940.

(ii) Includes the return of leased assets of \$687 (net) at the conclusion of the lease period. The cost of these assets was \$2,130,155.

9 Non-financial assets (continued)

TABLE B - Assets at valuation, included in Table A above.

| Item | Leasehold Improvements \$'000 | Plant and Equipment \$'000 | TOTAL \$'000 |
|---------------------------------------|-------------------------------------|----------------------------------|-------------------------------|
| As at 30 June 2004 | | | |
| Gross value | 28,180 | 6,144 | 34,324 |
| Accumulated depreciation/amortisation | (18,018) | (5,912) | (23,930) |
| Net book value | 10,162 | 232 | 10,394 |
| As at 30 June 2003 | | | |
| Gross value | 16,660 | 9,492 | 26,152 |
| Accumulated depreciation/amortisation | (12,559) | (8,784) | (21,343) |
| Net book value | 4,101 | 708 | 4,809 |

TABLE C - Assets held under finance lease, included in Table A above.

| Item | | Plant and Equipment \$'000 | TOTAL \$'000 |
|---------------------------------------|--|----------------------------------|-------------------------------|
| As at 30 June 2004 | | | |
| Gross value | | 19,314 | 19,314 |
| Accumulated depreciation/amortisation | | (10,352) | (10,352) |
| Net book value | | 8,962 | 8,962 |
| As at 30 June 2003 | | | |
| Gross value | | 17,762 | 17,762 |
| Accumulated depreciation/amortisation | | (6,848) | (6,848) |
| Net book value | | 10,914 | 10,914 |

TABLE D - Assets under construction (Intangibles - Computer software - work in progress), included in Table A above.

| Item | Intangibles - Computer software \$'000 | TOTAL \$'000 |
|---|---|-------------------------------|
| Gross value at 30 June 2004 | 687 | 687 |
| Gross value at 30 June 2003 | 102 | 102 |
| | 2004 \$'000 | 2003 \$'000 |
| 9E Other non-financial assets | | |
| Prepayments | 1,970 | 1,036 |
| Total other non-financial assets (current) | 1,970 | 1,036 |

notes to and forming part of the financial statements

for the year ended 30 June 2004

2004
\$'000

2003
\$'000

10 Interest bearing liabilities

Leases

Finance lease commitments

Payable:

 Within one year

5,722

5,518

 In one to five years

4,409

6,583

Minimum lease payments

10,131

12,101

Deduct: future finance charges

(635)

(737)

Net lease liability

9,496

11,364

Lease liability is represented by:

Current

5,349

5,041

Non-current

4,147

6,323

Net lease liability

9,496

11,364

Finance leases exist in relation to certain IT assets. The leases are for terms of up to 5 years, with an option to extend for a further term.

11 Provisions

Employees

Salaries

7,666

4,521

Leave

26,195

22,656

Separation and redundancies

605

460

Aggregate employees benefit liability and related on-costs

34,466

27,637

Employees provisions are represented by:

Current

20,392

15,326

Non-current

14,074

12,311

Total employees provisions

34,466

27,637

| Notes | 2004 \$'000 | 2003 \$'000 |
|-------|------------------------------|----------------|
|-------|------------------------------|----------------|

12 Payables

12A Suppliers

| | | |
|---------------------------------------|--------------|-------|
| Trade creditors | 9,559 | 6,674 |
| Goods and services tax payable | 160 | 93 |
| <i>Total supplier payables</i> | 9,719 | 6,767 |

All supplier payables are current.

12B Other payables

| | | | |
|--|-------|--------------|-------|
| Unearned revenue - Government appropriations | (i) | 6,499 | - |
| Other unearned revenue | | 104 | 30 |
| Interest payable | | 14 | - |
| Property lease incentives | (ii) | 2,751 | 2,800 |
| Insurance recoveries | (iii) | 3 | 1,296 |
| <i>Total other payables</i> | | 9,371 | 4,126 |
| Other payables are represented by: | | | |
| Current | | 7,439 | 1,897 |
| Non-current | | 1,932 | 2,229 |
| <i>Total other payables</i> | | 9,371 | 4,126 |

- (i) Unearned revenue - Government appropriations represents appropriations for specific government initiatives that have not yet been spent where the appropriation is conditional on any unspent balance being returned to Government. In 2003-04 this amount relates to the HIH Task Force.
- (ii) Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2004. The amortisation of these amounts will be made over the life of the leases, commencing after the expiry of the rent deferral periods.
- (iii) Insurance recoveries are payments made by ASIC's insurer, Comcover, in connection with claims made by ASIC for expenditure attributable to the HIH Royal Commission. The amount of \$2,902 (2003: \$1,296,400) represents the balance of insurance recoveries owing to Government.

notes to and forming part of the financial statements

for the year ended 30 June 2004

13 Equity

Analysis of Equity

| Item | Accumulated Deficit | | Asset Revaluation Reserve | | Contributed Equity | | TOTAL EQUITY | |
|---|---------------------|----------------|---------------------------|----------------|--------------------|----------------|----------------|----------------|
| | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 |
| Opening balance as at 1 July | (6,286) | (6,174) | 5,254 | 5,254 | - | - | (1,032) | (920) |
| Net surplus/deficit | (4,820) | (112) | n/a | n/a | n/a | n/a | (4,820) | (112) |
| Net revaluation increment (leasehold improvements) - disclosed in Note 9D Table A | 925 | - | n/a | n/a | n/a | n/a | 925 | - |
| Transactions with owner: | | | | | | | | |
| Contributions by owner: | | | | | | | | |
| Appropriations (equity injections) | | | | | | | | |
| | - | - | - | - | 2 | - | 2 | - |
| Closing balance as at 30 June | (10,181) | (6,286) | 5,254 | 5,254 | 2 | - | (4,925) | (1,032) |
| Total equity attributable to the Commonwealth | (10,181) | (6,286) | 5,254 | 5,254 | 2 | - | (4,925) | (1,032) |

| Notes | 2004 \$'000 | 2003 \$'000 |
|-------|------------------------------|----------------|
|-------|------------------------------|----------------|

14 Cash flow reconciliation

Reconciliation of cash per Statement of Financial Position to Statement of Cash Flows

| | | |
|--|---------------|--------|
| Cash at year end per Statement of Cash Flows | 10,850 | 11,188 |
| Statement of Financial Position items comprising above cash: | | |
| Financial Asset - Cash | 10,850 | 11,188 |

Reconciliation of net deficit to net cash from operating activities:

| | | | |
|---|----|----------------|--------|
| Net deficit | | (4,820) | (112) |
| Depreciation and amortisation | 6C | 12,836 | 12,317 |
| Write down of property, plant and equipment assets | 6D | 72 | 185 |
| Net loss on disposal of property, plant and equipment | 6E | 76 | 1 |

Change in operating assets and liabilities resulting from operating activities:

| | | | |
|---|-----|----------------|---------|
| (Increase) in receivables | | (6,788) | (561) |
| (Increase)/decrease in other non-financial assets | | (934) | 100 |
| Increase in employees provisions | | 6,829 | 711 |
| Increase in suppliers payables | (i) | 2,529 | 908 |
| Increase/(decrease) in other payables | | 5,245 | (2,938) |

| | | | |
|---|--|---------------|--------|
| Net cash from operating activities | | 15,045 | 10,611 |
|---|--|---------------|--------|

(i) Suppliers payables includes the accrual of capital expenditure amounting to \$422,809 (2003: nil).

15 Non-cash financing and investing activities

Finance Lease Transaction

During the financial year ASIC acquired plant and equipment with an aggregate fair value of \$3,682,561 (2003: \$7,001,631), by means of a finance lease. This acquisition is not reflected in the Statement of Cash Flows.

notes to and forming part of the financial statements

for the year ended 30 June 2004

16 Contingent liabilities and assets

Contingent liabilities

ASIC is party to many civil litigation matters arising out of its statutory duty to administer and enforce laws for which it is responsible. Also, like any corporate body, ASIC may from time to time be the subject of legal proceedings for damages brought against it, or may receive notice indicating that such proceedings may be brought.

In either case ASIC (like any other party to civil litigation) may be required to pay the other party's costs if ASIC is unsuccessful.

As at the date of this report there were no contingent liabilities other than as disclosed as unquantifiable contingent liabilities below (2003: nil).

Contingent assets

Conversely, ASIC, like any other party to civil litigation may be entitled to recover costs arising out of such litigation if it is successful.

As at the date of this report there were no contingent assets other than as disclosed as unquantifiable contingent assets below (2003: nil).

Unquantifiable contingent liabilities

1. Civil litigation matters brought by ASIC to enforce the laws for which it is responsible.

As at the date of this report there are no matters of this type which may result in a material contingent liability by way of an award of costs against ASIC.

2. Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There are at the date of this report, seven matters of this type where proceedings are current. In each of those matters, ASIC denies liability and is of the view that save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- (a) successfully defend the action instituted; and
- (b) not be required to pay any damages.

Seven further possible claims of this type have been notified to ASIC since 1 July 2003. It is not yet possible in any of those cases to assess the likelihood that proceedings will be commenced.

Unquantifiable contingent assets

Civil litigation brought by ASIC to enforce the laws for which it is responsible

As at the date of this report there is one matter of this type which may result in a material contingent asset by way of a payment of costs in favour of ASIC. It is not practicable to make an estimate of any such costs.

17 Related party disclosures

The Commissioners of ASIC during the financial year and to the date of this report were:

J. J. Lucy (Deputy Chairman to 21 December 2003, Acting Chairman from 22 December 2003 and appointed as Chairman from 13 May 2004)

J. R. Cooper (Deputy Chairman from 12 July 2004)

B. J. Collier (Commissioner)

M. J. Rodgers (Acting Commissioner from 21 May 2004 to 12 July 2004)

J. C. Iglesias (Acting Commissioner from 22 December 2003 to 13 May 2004)

D.W. Knott (Chairman to 31 December 2003)

The aggregate remuneration of Commissioners is disclosed in Note 18A.

There were no loans made to Commissioners or Commissioner related entities during the reporting period.

There were no other transactions with Commissioners or Commissioner related entities during the reporting period.

18 Remuneration of Commissioners and Executive Officers

18A Remuneration of Commissioners

The number of Commissioners included in these figures is shown below in the relevant remuneration bands.

| | 2004 | 2003 |
|---|----------------------|---------------|
| | Commissioners | Commissioners |
| \$100,000 to \$109,999 | - | 1 |
| \$180,000 to \$189,999 | 1 | - |
| \$260,000 to \$269,999 | 1 | 1 |
| \$290,000 to \$299,999 | 1 | 1 |
| \$300,000 to \$309,999 | 1 | - |
| \$340,000 to \$349,999 | - | 1 |
| \$370,000 to \$379,999 | 1 | - |
| | 5 | 4 |
| | 2004 | 2003 |
| | \$ | \$ |
| Aggregate amount of superannuation payments in connection with the future retirement of Commissioners | 109,701 | 50,987 |
| Other remuneration received or due and receivable by Commissioners | 1,298,012 | 962,286 |
| Total remuneration received or due and receivable by Commissioners | 1,407,713 | 1,013,273 |

Full year remuneration for Acting Commissioners M. J. Rodgers and J. C. Iglesias of \$554,519 is included in total remuneration received or due and receivable by Commissioners above. J. R. Cooper was appointed Deputy Chairman on 12 July 2004 and no remuneration was received by him during the financial year.

notes to and forming part of the financial statements

for the year ended 30 June 2004

18 Remuneration of Commissioners and Executive Officers (continued)

18B Remuneration of Executive Officers

| | 2004 Executives | 2003 Executives |
|---|--------------------|--------------------|
| The number of executives who received or were due to receive total remuneration of \$100,000 or more in the relevant income bands is shown below: | | |
| \$110,000 to \$119,999 | 1 | 3 |
| \$120,000 to \$129,999 | 2 | 4 |
| \$130,000 to \$139,999 | 4 | 1 |
| \$140,000 to \$149,999 | 6 | 2 |
| \$150,000 to \$159,999 | 2 | 4 |
| \$160,000 to \$169,999 | 3 | 4 |
| \$170,000 to \$179,999 | 3 | 5 |
| \$180,000 to \$189,999 | 2 | 4 |
| \$190,000 to \$199,999 | 4 | 1 |
| \$200,000 to \$209,999 | 2 | - |
| \$210,000 to \$219,999 | 2 | 3 |
| \$220,000 to \$229,999 | - | 1 |
| \$230,000 to \$239,999 | 1 | 1 |
| \$240,000 to \$249,999 | 1 | - |
| \$250,000 to \$259,999 | 1 | - |
| \$270,000 to \$279,999 | 1 | 1 |
| | 35 | 34 |

| | 2004 \$ | 2003 \$ |
|---|------------------|------------|
| The aggregate amount of total remuneration of executives shown above: | 6,099,485 | 5,756,017 |
| The aggregate amount of separation and redundancy payments during the year to executives shown above: | 79,330 | - |

The executive remuneration includes all executive officers concerned with or taking part in the management of ASIC during 2003-04 except for the Commissioners and Acting Commissioners. Details in relation to Commissioners and Acting Commissioners are shown at Note 18A - Remuneration of Commissioners.

19 Remuneration of Auditors

| | 2004 \$ | 2003 \$ |
|---|----------------|------------|
| Remuneration to the Auditor-General for auditing the financial statements of ASIC in respect of the reporting period. | 120,000 | 100,000 |

Refer to Note 25 for audit services received free of charge in respect of administered items.

| | |
|---------------|--------|
| 2004 | 2003 |
| \$'000 | \$'000 |

20 Assets held in trust

Legal authority: Safety Rehabilitation and Compensation Act 1998

Comcare Trust Account

Purpose - monies held in trust and advanced to ASIC by Comcare for the purpose of distributing compensation payments made in accordance with the Safety Rehabilitation and Compensation Act 1998.

| | | |
|--|------------|-----|
| Opening balance | 92 | 227 |
| Receipts | 372 | 183 |
| Available for payments | 464 | 410 |
| Disbursements | 362 | 318 |
| <i>Balance carried forward to next year</i> | 102 | 92 |

21 Expenditure relating to statutory boards and tribunal

Pursuant to Parts 11 and 12 of the Australian Securities and Investments Commission Act 2001, ASIC is required to support statutory boards and a tribunal to promote activities that assist ASIC to attain its aims.

| | | |
|---|--------------|-------|
| Companies Auditors and Liquidators Disciplinary Board (CALDB) | 474 | 375 |
| Australian Accounting Standards Board (AASB) | 1,500 | 1,500 |
| Superannuation Complaints Tribunal | 3,353 | 3,138 |

The Superannuation Complaints Tribunal (SCT) is an independent body with distinct responsibilities as set out under the Superannuation (Resolution of Complaints) Act 1993 and has operated under the budgetary umbrella of ASIC since 1 July 1998.

Employee and administrative expenditure incurred on behalf of these boards and tribunal are included in the Statement of Financial Performance of ASIC.

22 Assets of deregistered companies vesting in ASIC

Section 601AD of the Corporations Act 2001 provides that, on deregistration of a company, all of the company's property vests in ASIC. ASIC adopts a passive approach to administering vested property and accounts for those assets in accordance with its statutory duties.

ASIC generally only deals with vested property once an application is made by a third party for ASIC to exercise its powers under section 601AE of the Corporations Act 2001. ASIC therefore does not consider it to be appropriate that the value of any identified property vesting be recorded, or disclosed in these financial statements.

23 Average staffing levels

| | | |
|---|--------------|-------|
| | 2004 | 2003 |
| The average staffing levels for ASIC during the year were | 1,531 | 1,396 |

notes to and forming part of the financial statements

for the year ended 30 June 2004

24 Financial instruments

24A Terms, conditions and accounting policies

| Financial instrument | Notes | Accounting policies and methods (including recognition criteria and measurement basis) | Nature of underlying instrument (including significant terms and conditions affecting the amount, timing and certainty of cash flows) |
|------------------------------|-------|---|---|
| FINANCIAL ASSETS | | Financial assets are recognised when control over future economic benefits is established and the amount of the benefit can be reliably measured. | |
| Cash at bank | 8A | Deposits are recognised at their nominal amounts. Interest on cash at bank is credited to revenue as it accrues. | Interest is earned on the daily balance. At 30 June 2004 the current interest rate was 4.2%. |
| Cash on deposit | 8A | Deposits are recognised at their nominal amounts. Interest is accrued as it is earned. | Surplus funds, mainly from monthly drawdowns of appropriation, are placed on deposit at call with ASIC's banker. Interest is earned on the daily balance. |
| Receivables for services | 8B | These receivables are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collection of the debt is judged to be less rather than more likely. | Credit terms are net 14 days (2003: 14 days). |
| FINANCIAL LIABILITIES | | Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured. | |
| Finance lease liabilities | 10 | Liabilities are recognised at the present value of the minimum lease payments at the beginning of the lease. The discount rates used are estimates of the interest rates implicit in the lease. | At reporting date, ASIC had finance leases with terms of up to 5 years, with an option to extend for a further term. The interest rate used to discount the minimum lease payments is ASIC's incremental borrowing rate of 5.1%. The lease liabilities are secured by the lease assets. |
| Trade creditors | 12A | Creditors and accruals are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. Liabilities are recognised to the extent that the goods and services have been received (and irrespective of having been invoiced). | Settlement is usually made net 30 days. |
| Lease incentives | 12B | The lease incentive is recognised as a liability on receipt of the incentive. The amount of the liability is reduced on a straight-line basis over the life of the lease by allocating lease payments between rental expense and reduction of the liability. | |

24 Financial instruments (continued)

24B Interest rate risk

| Financial instrument | Notes | Floating interest rate | | Fixed interest rate maturing in | | | | | | Non-interest bearing | | Total | | Weighted average effective interest rate | | |
|------------------------------|-------|------------------------|---------------|---------------------------------|--------------|--------------|--------------|-----------|----------|----------------------|---------------|---------------|---------------|--|------|------|
| | | | | 1 year or less | | 1 to 5 years | | > 5 years | | | | | | | | |
| | | 2004 | 2003 | 2004 | 2003 | 2004 | 2003 | 2004 | 2003 | 2004 | 2003 | 2004 | 2003 | 2004 | 2003 | 2004 |
| | | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | % | % |
| Financial assets | | | | | | | | | | | | | | | | |
| Cash at bank and on hand | 8A | 7,369 | 5,956 | - | - | - | - | - | - | 63 | 67 | 7,432 | 6,023 | 4.4 | 3.7 | |
| Cash on deposit | 8A | 3,418 | 5,165 | - | - | - | - | - | - | - | - | 3,418 | 5,165 | 5.3 | 4.7 | |
| Receivables for services | 8B | - | - | - | - | - | - | - | - | 10,163 | 3,375 | 10,163 | 3,375 | n/a | n/a | |
| Total | | 10,787 | 11,121 | - | - | - | - | - | - | 10,226 | 3,442 | 21,013 | 14,563 | | | |
| Total Assets | | | | | | | | | | | | 58,127 | 48,862 | | | |
| Financial liabilities | | | | | | | | | | | | | | | | |
| Finance lease liabilities | 10 | - | - | 5,349 | 5,041 | 4,147 | 6,323 | - | - | - | - | 9,496 | 11,364 | 5.1 | 4.5 | |
| Trade creditors | 12A | - | - | - | - | - | - | - | - | 9,719 | 6,767 | 9,719 | 6,767 | n/a | n/a | |
| Unearned revenue | 12B | - | - | - | - | - | - | - | - | 6,603 | 30 | 6,603 | 30 | n/a | n/a | |
| Other debt | 12B | 14 | - | - | - | - | - | - | - | 2,754 | 4,096 | 2,768 | 4,096 | 4.1 | n/a | |
| Total | | 14 | - | 5,349 | 5,041 | 4,147 | 6,323 | - | - | 19,076 | 10,893 | 28,586 | 22,257 | | | |
| Total Liabilities | | | | | | | | | | | | 63,052 | 49,894 | | | |

notes to and forming part of the financial statements

for the year ended 30 June 2004

24 Financial instruments (continued)

24C Net fair values of financial assets and liabilities

| | | 2004 | | 2003 | |
|------------------------------------|-------|------------------------------|---------------------------------|------------------------------|---------------------------------|
| | Notes | Total carrying amount \$'000 | Aggregate net fair value \$'000 | Total carrying amount \$'000 | Aggregate net fair value \$'000 |
| Financial assets | | | | | |
| Cash at bank and on hand | 8A | 7,432 | 7,432 | 6,023 | 6,023 |
| Deposits at call | 8A | 3,418 | 3,418 | 5,165 | 5,165 |
| Receivables for services | 8B | 10,163 | 10,163 | 3,375 | 3,375 |
| Total financial assets | | 21,013 | 21,013 | 14,563 | 14,563 |
| Financial liabilities | | | | | |
| Finance lease liabilities | 10 | 9,496 | 9,496 | 11,364 | 11,364 |
| Trade creditors | 12A | 9,719 | 9,719 | 6,767 | 6,767 |
| Unearned revenue | 12B | 6,603 | 6,603 | 30 | 30 |
| Other debt | 12B | 2,768 | 2,768 | 4,096 | 4,096 |
| Total financial liabilities | | 28,586 | 28,586 | 22,257 | 22,257 |

Financial assets

The net fair values of cash and deposits on call approximate their carrying amounts.

The net fair values of receivables for services approximate their carrying amounts.

Financial liabilities

The net fair values of finance leases are based on discounted cash flows using current interest rates for liabilities with similar risk profiles.

The net fair values of non-bank loans approximate their carrying amounts.

The net fair value of surplus space on non-cancellable leases has been recognised as a liability and stated at the net present value of future net outlays.

The net fair values for insurance recoveries, unearned revenue and trade creditors, all of which are short-term in nature, approximate their carrying amounts.

24D Credit risk exposures

ASIC's maximum exposure to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as disclosed in the Statement of Financial Position.

ASIC has no significant exposures to any concentrations of credit risk.

| Notes | 2004 \$'000 | 2003 \$'000 |
|-------|----------------|----------------|
|-------|----------------|----------------|

25 Revenues administered on behalf of Government

Revenues from Government

| | | |
|---|----|----|
| Administered services received free of charge (i) | 25 | 25 |
|---|----|----|

- (i) Financial statement audit services by the Auditor-General are provided free of charge to ASIC in relation to the audit of Corporations Act, Banking Act and Life Insurance Act revenue items. The fair value of the audit services provided is \$25,000 (2003: \$25,000).

Bank interest

| | | |
|--|----|-----|
| Bank interest from Banking Act Unclaimed Monies account | 12 | 17 |
| Bank interest from Life Insurance Act Unclaimed Monies account | 35 | 133 |

| | | |
|----------------------------|-----------|------------|
| Total bank interest | 47 | 150 |
|----------------------------|-----------|------------|

Non-taxation revenues

| | | | |
|--|------|---------|---------|
| Corporations Act fees and charges | 1.6 | 456,575 | 405,453 |
| Monies received from banks and deposit taking institutions in respect of accounts inactive for seven years | 1.16 | 31,474 | 21,147 |
| Monies received from life insurance institutions for policies inactive for seven years | 1.16 | 5,111 | 4,562 |

| | | | |
|------------------------------------|--|----------------|----------------|
| Total non-taxation revenues | | 493,160 | 431,162 |
|------------------------------------|--|----------------|----------------|

Corporations Act fees and charges

| | 2004 \$'000 | 2004 \$'000 | 2004 \$'000 | 2003 \$'000 | 2003 \$'000 | 2003 \$'000 |
|--|----------------|----------------|----------------|----------------|----------------|----------------|
| | Fines | Fees | Total | Fines | Fees | Total |
| Mandatory collections (i) | 32,296 | 384,441 | 416,737 | 37,562 | 330,997 | 368,559 |
| Information broker fees (ii) | - | 38,179 | 38,179 | - | 32,347 | 32,347 |
| Other fees (ii) | - | 1,180 | 1,180 | - | 1,293 | 1,293 |
| Court receivables (iii) | 479 | - | 479 | 3,254 | - | 3,254 |
| Total Corporations Act fees and charges | 32,775 | 423,800 | 456,575 | 40,816 | 364,637 | 405,453 |

- (i) Fees and charges arising from actions which are mandatory under the Corporations Act. Examples include annual review fees (2003: lodgement of annual returns) and other fees prescribed in the Corporations (Fees) Regulations. Refer to Note 1.6 for details of the change in revenue recognition.
- (ii) Fees and charges paid by information brokers (intermediaries between ASIC and the consumer) and other consumers for information provided by ASIC from its corporations information database.
- (iii) Recoveries of outstanding lodgement fees in accordance with ASIC's summary prosecutions program.

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | Notes | 2004 \$'000 | 2003 \$'000 |
|---|-------|----------------|----------------|
| 26 Expenses administered on behalf of Government | | | |
| Write-down and impairment of assets | | | |
| Financial assets | | | |
| Write off of fees and charges | (i) | 4,855 | 4,358 |
| Increase (decrease) in provision for doubtful debts | (ii) | 15,005 | (1,491) |
| Waiver of fees and charges owing | (iii) | 3,507 | 4,671 |
| Total write-down and impairment of assets | | 23,367 | 7,538 |
| Other expenses | | | |
| Refunds paid to bank and deposit taking institution account holders | 1.16 | 14,709 | 16,540 |
| Refunds paid to life insurance policy holders | 1.16 | 3,333 | 2,761 |
| Audit fees | 25 | 25 | 25 |
| Total other expenses | | 18,067 | 19,326 |

- (i) The number and aggregate amount of Commonwealth monies written off during the financial year pursuant to section 47 of the FMA Act 1997 is 24,520 items totalling \$4,855,336 (2003: 20,042 items totalling \$4,357,804).
- (ii) An increase in the provision for doubtful debts over the last year of \$15,005,313 to \$19,133,000 (2003: decrease of \$1,491,000 to \$4,127,687). The level of the provision was re-appraised following a change in legislation that became effective from 1 July 2003 (Note 1.15 refers).
- (iii) The number and aggregate of amounts owing to the Commonwealth the recovery of which was waived during the financial year pursuant to section 34(1) of the FMA Act 1997 is 16,482 items totalling \$3,506,998 (2003: 22,491 items totalling \$4,671,004).

| | 2004 \$'000 | 2003 \$'000 |
|--|----------------|----------------|
| 27 Assets administered on behalf of Government | | |
| Cash | | |
| Cash at bank and on hand - Corporations Act | 2,676 | 3,222 |
| Cash at bank - Banking Act | 851 | 1,571 |
| Cash at bank - Life Insurance Act | 265 | 585 |
| Total cash | 3,792 | 5,378 |
| Balance of cash as at 30 June shown in the Schedule of Administered Cash Flows | 3,792 | 5,378 |
| Receivables - Corporations Act | | |
| Corporations Act fees and charges | 74,500 | 10,338 |
| Court costs | 1,640 | 1,800 |
| Information brokers fees | 5,770 | 3,051 |
| Less: Provision for doubtful debts | (19,133) | (4,128) |
| Total receivables (net) | 62,777 | 11,061 |
| The total of uncollected Corporations Act Commonwealth revenue classified by age analysis is as follows: | | |
| Not overdue | 45,515 | 210 |
| Overdue by: | | |
| Less than 30 days | 14,985 | 6,015 |
| 30 to 60 days | 7,294 | 1,252 |
| 60 to 90 days | 2,259 | 997 |
| More than 90 days | 11,857 | 6,715 |
| Total receivables (gross) | 81,910 | 15,189 |
| The provision for doubtful debts is aged as follows: | | |
| Not overdue | 3,733 | - |
| Overdue by: | | |
| Less than 30 days | 1,263 | - |
| 30 to 60 days | 1,314 | - |
| 60 to 90 days | 1,155 | - |
| More than 90 days | 11,668 | 4,128 |
| Total provision for doubtful debts | 19,133 | 4,128 |
| Accrued revenue - Corporations Act | | |
| Annual returns not yet lodged | - | 5,693 |
| Late fees attributable to annual returns | - | 1,898 |
| Total accrued revenue | - | 7,591 |

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | 2004 \$'000 | 2003 \$'000 |
|--|----------------|----------------|
| 28 Liabilities administered on behalf of Government | | |
| Payables | | |
| Information Integrity monies - Corporations Act | 14 | 303 |
| Corporations Act refunds | 4,006 | 4,556 |
| Unallocated monies - Corporations Act | 1,689 | 3,311 |
| Total payables | 5,709 | 8,170 |

29 Administered reconciliation table

| | | |
|---|---------------|-----------|
| Administered assets less administered liabilities as at 1 July | 15,860 | 19,795 |
| Plus Administered revenues | 493,232 | 431,337 |
| Less Administered expenses | (41,434) | (26,864) |
| Appropriation provided by Government from CRF | 20,404 | 21,000 |
| Transfers to CRF | (427,202) | (429,408) |
| Administered assets less administered liabilities (Net equity) as at 30 June | 60,860 | 15,860 |

30 Administered cash flow reconciliation

Reconciliation of net contribution to budget outcome to net cash provided by operating activities

| | | |
|--|----------------|-----------|
| Net contribution to budget outcome | 472,202 | 425,473 |
| Cash to CRF | (427,202) | (429,408) |
| Net increase (decrease) in administered assets from operations | 45,000 | (3,935) |
| Increase/(decrease) in provision for doubtful debts | 15,005 | (1,491) |
| Increase/(decrease) in payables and provisions | (2,461) | 1,642 |
| Decrease/(increase) in receivables | (66,721) | 2,173 |
| Decrease in accrued revenue | 7,591 | 3,536 |
| | (46,586) | 5,860 |
| Net cash provided/(used) by operating activities | (1,586) | 1,925 |

31 Remuneration of Auditors - administered items

| | \$ | \$ |
|--|--------|--------|
| Financial statement audit services by the Auditor-General are provided free of charge to ASIC in relation to the audit of Corporations Act, Banking Act and Life Insurance Act (administered) items. | 25,000 | 25,000 |

2004
\$'000

2003
\$'000

32 Assets held in trust - companies unclaimed monies

ASIC has established trust accounts for Companies Unclaimed Monies. Monies received are placed in a special purpose bank account and are expended in accordance with the Corporations Act 2001. The principal amount of these monies is not available for the purposes of ASIC and is not recognised in the financial statements.

Companies Unclaimed Monies Account (Part 9.7 - Corporations Act 2001) (represented by cash at bank)

| | | |
|---|---------------|---------------|
| Opening balance | 47,620 | 33,818 |
| Receipts | 13,831 | 21,281 |
| Special appropriations received (section 28(2) FMA Act) | 176 | 110 |
| Interest received | 2,358 | 1,688 |
| Disbursements | (6,292) | (3,292) |
| Special purpose disbursement | (2,060) | (400) |
| Management costs recovered by ASIC | (613) | (506) |
| less transfer to Consolidated revenue | (1,804) | (5,079) |
| Closing balance | 53,216 | 47,620 |

33 Assets held in trust - unclaimed monies holding account

ASIC has established a special purpose bank account in terms of Section 601AD and Part 9.7 of the Corporations Act 2001. Monies received are expended in accordance with the Corporations Act 2001.

These monies are not available for the purposes of ASIC and are not recognised in the financial statements.

Unclaimed monies holding account

| | | |
|------------------------|-----------|-----------|
| Opening balance | 16 | - |
| Receipts | 7,003 | 6,979 |
| Interest received | 5 | 1 |
| Disbursements | (7,011) | (6,964) |
| Closing balance | 13 | 16 |

notes to and forming part of the financial statements

for the year ended 30 June 2004

| | 2004 \$'000 | 2003 \$'000 |
|--|----------------|----------------|
| 34 Fiduciary monies (other than trust monies) | | |
| Monies held pending the outcome of ASIC investigations and/or legal proceedings | | |
| Opening balance | 4,681 | 4,418 |
| Receipts | - | 204 |
| Interest received | 172 | 171 |
| Disbursements | (1,033) | (112) |
| Closing balance | 3,820 | 4,681 |
| Monies received and disbursed in accordance with orders made by the courts or deeds of settlement between ASIC and other parties | | |
| Opening balance | 1,759 | 2,080 |
| Receipts | - | 41,923 |
| Interest received | 46 | 279 |
| Disbursements | (935) | (42,523) |
| Closing balance | 870 | 1,759 |
| 35 Fiduciary monies (other than trust monies) security deposits | | |
| <p>The Corporations Act 2001 and the Corporations Regulations 2001 requires applicants for a dealers or investment advisers licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available for the purposes of ASIC and are not recognised in the financial statements.</p> | | |
| Security deposits under Corporations Regulations 2001 regulation 7.6.02AA (dealers and investment advisers) | | |
| Cash (at bank) | 261 | 311 |
| Interest bearing deposits (at bank) | 760 | 720 |
| Inscribed stock | 20 | 100 |
| Insurance bonds | 20 | 20 |
| Bank guarantees | 40,105 | 40,695 |
| Closing balance | 41,166 | 41,846 |
| Security deposits under Corporations Act 2001 s1284(1) (liquidators) | | |
| Insurance bonds | 5,200 | 5,550 |
| Bank guarantees | 500 | 500 |
| Closing balance | 5,700 | 6,050 |

36 Special accounts

Two special accounts were established by the Department of Finance and Administration in terms of section 20 of the FMA Act on 31 December 1997 ('Other Trust Monies Account' and 'Services for Other Governments and Non-Agency Bodies Account'). There were no transactions in these two accounts during the year, and the balance in each account is nil (2003: nil).

37 Administered financial instruments

37A Terms, conditions and accounting policies

| Financial instrument | Notes | Accounting policies and methods (including recognition criteria and measurement basis) | Nature of underlying instrument (including significant terms and conditions affecting the amount, timing and certainty of cash flows) |
|--|-------|--|---|
| FINANCIAL ASSETS | | Financial assets are recognised when control over future economic benefits is established and the amount of the benefit can be reliably measured. | |
| Deposits at call | 27 | Deposits are recognised at their nominal amounts. | Monies awaiting payment to the CRF are held at call with ASIC's banker. |
| Receivables - Corporations Act 2001 fees outstanding | 27 | These receivables are recognised at the nominal amounts due less any provision for bad and doubtful debts. Provisions are made when collection of the debt is judged to be less rather than more likely. | Credit terms: payable on lodgement of annual return (2003: payable on lodgement of annual return). |
| Accrued revenue | 27 | As for receivables - Corporations Act 2001 fees outstanding. | As for receivables - Corporations Act 2001 fees outstanding. |
| FINANCIAL LIABILITIES | | Financial liabilities are recognised when a present obligation to another party is entered into and the amount of the liability can be reliably measured. | |
| Refunds | 28 | These amounts are payable to companies that have either been paid in excess of what has been assessed or as a result of waiving a late fee. Refunds are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. | Refunds awaiting payment to companies are held at call with ASIC's banker. |
| Unallocated monies - Corporations Act | 28 | Unallocated monies including overpaid accounts are recognised at their nominal amounts, being the amounts at which the liabilities will be settled. | Monies unallocated awaiting refund are held at call with ASIC's banker. |

notes to and forming part of the financial statements

for the year ended 30 June 2004

37 Administered financial instruments (continued)

37B Administered interest rate risk

| Financial instrument | Notes | Floating interest rate | | Fixed interest rate | | | | | | Non-interest bearing | | Total | | Weighted average effective interest rate | |
|------------------------------|-------|------------------------|----------------|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|----------------|----------------|----------------|--|-----------|
| | | | | 1 year or less | | 1 to 5 years | | > 5 years | | | | | | | |
| | | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 % | 2003 % |
| Financial assets | | | | | | | | | | | | | | | |
| Administered bank account | 27 | 1,116 | 2,156 | - | - | - | - | - | - | 2,676 | 3,222 | 3,792 | 5,378 | 4.2 | 3.6 |
| Fee receivable (net) | 27 | - | - | - | - | - | - | - | - | 62,777 | 11,061 | 62,777 | 11,061 | n/a | n/a |
| Accrued revenue | 27 | - | - | - | - | - | - | - | - | - | 7,591 | - | 7,591 | n/a | n/a |
| Total | | 1,116 | 2,156 | - | - | - | - | - | - | 65,453 | 21,874 | 66,569 | 24,030 | | |
| Total Assets | | | | | | | | | | | | 66,569 | 24,030 | | |
| Financial liabilities | | | | | | | | | | | | | | | |
| Refunds | 28 | - | - | - | - | - | - | - | - | 4,006 | 4,556 | 4,006 | 4,556 | n/a | n/a |
| Other monies | 28 | - | - | - | - | - | - | - | - | 1,703 | 3,614 | 1,703 | 3,614 | n/a | n/a |
| Total | | - | - | - | - | - | - | - | - | 5,709 | 8,170 | 5,709 | 8,170 | | |
| Total Liabilities | | | | | | | | | | | | 5,709 | 8,170 | | |

37 Administered financial instruments (continued)

37C Net fair values of administered financial assets and liabilities

| | 2004 | | 2003 | |
|------------------------------------|---------------------------------|------------------------------------|---------------------------------|------------------------------------|
| | Total carrying amount \$'000 | Aggregate net fair value \$'000 | Total carrying amount \$'000 | Aggregate net fair value \$'000 |
| Financial assets | | | | |
| Cash at bank and on hand | 3,792 | 3,792 | 5,378 | 5,378 |
| Receivables | 62,777 | 62,777 | 11,061 | 11,061 |
| Accrued revenue | - | - | 7,591 | 7,591 |
| Total financial assets | 66,569 | 66,569 | 24,030 | 24,030 |
| Financial liabilities | | | | |
| Refunds | 4,006 | 4,006 | 4,556 | 4,556 |
| Other monies | 1,703 | 1,703 | 3,614 | 3,614 |
| Total financial liabilities | 5,709 | 5,709 | 8,170 | 8,170 |

Financial assets

The net fair value of cash and deposits on call approximate their carrying amounts.

Receivables are carried at assessed value, which is equal to their net fair value.

Financial liabilities

Refunds are carried at their nominal value.

Administered credit risk exposures

The maximum exposure to credit risk at reporting date in relation to each class of recognised financial assets is the carrying amount of those assets as disclosed in Note 27 Administered financial assets.

There are no significant exposures to credit risk in regard to the Administered accounts.

38 Events occurring after balance date

As at 30 June 2004, ASIC had a deficiency of equity of \$4.925m resulting from the accumulation of prior year losses. To address this deficiency, the Government has provided ASIC with a cash equity injection of \$11.3m. This amount was received in July 2004.

There were no other events occurring after balance date that had a material effect on the financial statements.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
notes to and forming part of the financial statements

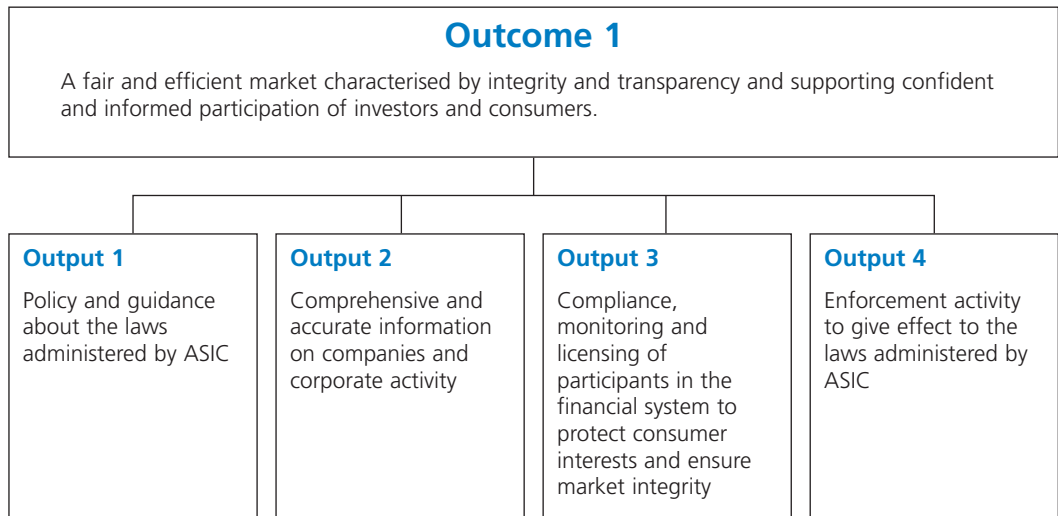
for the year ended 30 June 2004

39 Reporting of outcomes

The outcomes and outputs framework for budgeting and reporting was introduced by Government for all Commonwealth Departments and Agencies in 1999-2000.

ASIC receives funding from Government within the context of this framework to regulate the market in order to achieve “A fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers” (Outcome 1).

ASIC’s operations and activities that give effect to its role as a regulator are categorised into four outputs. The relationship between Outcome 1 and the corresponding four outputs is shown in the diagram below.



39 Reporting of outcomes (continued)

39A Net cost of outcome delivery

| | Outcome 1 | | Total | |
|---|------------------|------------------|------------------|------------------|
| | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 |
| Administered expenses | 41,434 | 26,864 | 41,434 | 26,864 |
| Departmental expenses | 196,158 | 172,607 | 196,158 | 172,607 |
| Total expenses | 237,592 | 199,471 | 237,592 | 199,471 |
| Costs recovered from provision of goods and services to the non-government sector | | | | |
| Departmental | 2,119 | 1,568 | 2,119 | 1,568 |
| Total costs recovered | 2,119 | 1,568 | 2,119 | 1,568 |
| Other external revenues | | | | |
| Administered | | | | |
| Non-taxation revenue | 493,232 | 431,337 | 493,232 | 431,337 |
| <i>Total administered</i> | 493,232 | 431,337 | 493,232 | 431,337 |
| Departmental | | | | |
| Interest | 2,043 | 2,094 | 2,043 | 2,094 |
| Revenue from sale of assets | 11 | 69 | 11 | 69 |
| Other | 2,396 | 4,718 | 2,396 | 4,718 |
| <i>Total departmental</i> | 4,450 | 6,881 | 4,450 | 6,881 |
| Total other external revenues | 497,682 | 438,218 | 497,682 | 438,218 |
| Net cost/(contribution) of outcome | (262,209) | (240,315) | (262,209) | (240,315) |

Table A above shows the net cost to the Commonwealth Budget outcome by adding the departmental and administered expenses \$237.592m (2003: \$199.471m), less departmental and administered revenues \$499.801m (2003: \$439.786m) to produce a net contribution to the Budget outcome of \$262.209m (2003: \$240.315m). This derived amount of \$262.209m (2003: \$240.315m) is meaningful only when it is used to consider ASIC's cost to the Budget outcome for the purposes of 'whole of Government' reporting. It is not intended to represent or portray an alternative operating result for ASIC to that which is disclosed in the Statement of Financial Performance.

Administered expenses represent revenue forgone to the Commonwealth as a result of refunds and waivers and write offs of fees and charges owing to the Commonwealth (not ASIC) under the Corporations Act. Administered revenues and administered expenses are detailed in Notes 25 and 26 respectively.

ASIC collects administered revenue on behalf of the Commonwealth under the Corporations Act, Banking Act and the Life Insurance Act.

notes to and forming part of the financial statements

for the year ended 30 June 2004

39 Reporting of outcomes (continued)

39B Major departmental revenues and expenses by output (output group)

| Outcome 1 | Output 1 | | Output 2 | | Output 3 | | Output 4 | | Total | |
|---------------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 |
| Departmental expenses | | | | | | | | | | |
| Employees | 5,848 | 5,471 | 23,610 | 25,928 | 38,055 | 26,797 | 48,952 | 38,723 | 116,465 | 96,919 |
| Suppliers | 4,575 | 3,556 | 18,040 | 16,851 | 13,937 | 17,417 | 30,119 | 25,292 | 66,671 | 63,116 |
| Depreciation and amortisation | 492 | 695 | 3,622 | 3,295 | 3,934 | 3,405 | 4,788 | 4,922 | 12,836 | 12,317 |
| Write-down of assets | 7 | 10 | 18 | 50 | 38 | 51 | 36 | 74 | 99 | 185 |
| Written down value of assets disposed | 6 | 4 | 16 | 18 | 34 | 19 | 31 | 29 | 87 | 70 |
| Total departmental expenses | 10,928 | 9,736 | 45,306 | 46,142 | 55,998 | 47,689 | 83,926 | 69,040 | 196,158 | 172,607 |
| Funded by: | | | | | | | | | | |
| Revenues from government | 10,997 | 9,192 | 49,487 | 43,560 | 51,320 | 45,022 | 71,481 | 65,058 | 183,285 | 162,832 |
| Sale of services | - | - | 3,603 | 2,782 | - | - | - | - | 3,603 | 2,782 |
| Interest | 123 | 115 | 551 | 550 | 572 | 568 | 797 | 861 | 2,043 | 2,094 |
| Proceeds from sale of assets | 1 | 4 | 3 | 18 | 3 | 19 | 4 | 28 | 11 | 69 |
| Other | 303 | - | - | - | - | - | 2,093 | 4,718 | 2,396 | 4,718 |
| Total departmental revenues | 11,424 | 9,311 | 53,644 | 46,910 | 51,895 | 45,609 | 74,375 | 70,665 | 191,338 | 172,495 |

The net costs shown include intra-government costs that would be eliminated in calculating the actual Budget outcome.

Expenses relating to more than one output are allocated using a predetermined formula.

39 Reporting of outcomes (continued)

39C Major classes of administered revenues and expenses by outcomes

| | Outcome 1 | | Total | |
|---|----------------|----------------|----------------|----------------|
| | 2004 \$'000 | 2003 \$'000 | 2004 \$'000 | 2003 \$'000 |
| Administered revenues | | | | |
| Other taxes, fees and fines | 456,575 | 405,453 | 456,575 | 405,453 |
| Monies from banks and deposit taking institutions | 31,474 | 21,147 | 31,474 | 21,147 |
| Monies from life insurance institutions | 5,111 | 4,562 | 5,111 | 4,562 |
| Services free of charge | 25 | 25 | 25 | 25 |
| Interest | 47 | 150 | 47 | 150 |
| Total administered revenues | 493,232 | 431,337 | 493,232 | 431,337 |
| Administered expenses | | | | |
| Write-down and impairment of assets | 23,367 | 7,538 | 23,367 | 7,538 |
| Other expenses | 18,067 | 19,326 | 18,067 | 19,326 |
| Total administered expenses | 41,434 | 26,864 | 41,434 | 26,864 |

End of financial statements

index

A

- accounting policies (ASIC), 74–82
- accounting standards, international, 83–84
- administered items (ASIC), 70–72
 - cash flow reconciliation, 110
 - financial instruments, 113
 - reconciliation table, 110
- administrators, assistance to, 33
- advertising, 31
- aims, 46
- annual returns abolished, 36
- appropriations (ASIC), 10, 87–89
- assets (ASIC)
 - administered on behalf of government, 109
 - vesting, 103
- assets held in trust (ASIC), 103
 - companies unclaimed monies, 111
 - unclaimed monies holding account, 111
- Audit Committee, 53, 56
- audit report, independent (ASIC), 53, 62–63
 - remuneration, 102
 - remuneration, administered items, 110
- audit services (ASIC), 53, 56
- auditors
 - disciplined, 14
 - law reform, 27
- Australian Prudential Regulation Authority (APRA), 46
- Australian Stock Exchange Ltd (ASX Ltd)
 - share trading & compliance, 27

B

- bankrupts, 34
- banning orders, 14, 18–19
- borrowing cost expense (ASIC), 91
- business data (six year summary), 60
- business management (ASIC), 37

C

- cash flows (ASIC), 67
 - administered, reconciliation, 110
 - reconciliation, 99
- Chairman's report, 3–5
- Chief Accountant, 11, 24, 27
- Chief Financial Officer, 64
- civil action, 14, 18
- CLERP, 9, 27
- Commissioners, 4–5, 47–49
 - appointment, 50
 - financial statements, 64
 - governance, 50
 - organisational chart, 11
 - remuneration, 50, 101
- commitments (ASIC), 69
- Commonwealth Disability Strategy report, 58
- Commonwealth Electoral Act disclosure, 59
- community involvement, 54–55
- company database (ASIC), 33–34, 36
- company directors
 - banning orders, 18
 - criminal matters, 15, 17
- company registration, 34–35
- complaints about ASIC staff, 52
- complaints to ASIC, 33–35
- compliance plans, 20–21
- confidentiality, 52
- conflicts of interest, 27
- Consumer Advisory Panel (CAP), 32
- consumer education, 29–30, 54
- consumer protection, 4, 28–32
 - key results, 29–31
 - operational summary, 13
 - organisational chart, 11
 - outlook, 31
 - overview, 28

contingencies (ASIC), 68
contingent liabilities and assets (ASIC), 100
continuous disclosure, 15
criminal matters, 15–17, 35

D

databases, 33–34, 36
deregistered companies
 applications concerning property, 28
 assets vesting in ASIC, 103
Director of Public Prosecutions (DPP), 14, 16–17, 35
directorates (ASIC), 12–13
directors
 banning orders, 18
 criminal matters, 15, 17
disability strategy, 58
disclosure (ASIC), 53
disclosure (corporate)
 law reform, 27
document imaging services, 33, 36

E

economic dependency (ASIC), 84
effectiveness, 6–7
Electoral Act disclosure, 59
enforcement, 3, 14–19
 action against company auditors
 and liquidators, 19
 bannings, fines & disciplinary proceedings, 18
 civil action and compensation, 18
 criminal matters, 16–17
 key results, 15–19
 operational summary, 12
 organisational chart, 11
 outlook, 19
 overview, 14
 staff, 7

environmental impact, 41
equal opportunity, 39
equity (ASIC), 98
ethics, 53
events occurring after balance date (ASIC), 115
Executive Directors, 11
executive officers' remuneration, 102
expenses (ASIC)
 administered on behalf of government, 108
 operating, 7, 90–91

F

fees and charges
 ASIC see revenues
 disclosure in offer documents, 21
fiduciary monies (ASIC), 112
 security deposits, 112
finance (ASIC), 10, 37–38, 41
 six year summary, 60
finance sector levy, 59
financial assets (ASIC), 92
financial instruments (ASIC), 104–106
 administered, 113–114
financial literacy, 4, 30
financial markets see markets regulation and policy
financial performance (ASIC), 65
financial position (ASIC), 66
financial reporting, 24, 26
Financial Reporting Council, 27
financial services licensing, 20–21, 23
financial services professionals
 banning orders, 19
 compliance checks, 20–21
 criminal matters, 16

- financial services reform
 - guidance on, 27
 - implementing, 21
 - staff, 7
 - standards, 8, 21, 54
- financial services regulation, 20–23
 - fees disclosure, 22
 - fund manager investment practices, 22
 - key results, 21–23
 - licensees checked, 21
 - offer documents for financial products, 22
 - operational summary, 12
 - organisational chart, 11
 - outlook, 22
 - policy and technical work, 23
 - preferential remuneration for advisers, 22
 - real estate investment advice, 22
 - superannuation complaints handling, 22
 - transition to financial services reform, 21
- financial statements (ASIC), 61–117
 - notes to, 73–117
- financial system improvement, 4
- fraud control (ASIC), 52
- fraud, fighting
 - criminal matters, 16
 - strategies, 8
- freedom of information, 57–58
- fundraising
 - illegal, 15
 - regulation, 24

G

- General Counsel, 11
- governance (ASIC), 50–51

H

- highlights, 1
- HIH Insurance, 15

I

- incorporations, 34–35
- independent audit report, 62–63
- industrial relations, 40
- information technology (IT), 37, 42
- infrastructure, 37–43
 - key results, 38–42
 - operational summary, 13
 - organisational chart, 11
 - outlook, 43
 - overview, 37
- insolvent trading, 33–34
- insurance & indemnities (ASIC), 53
- interest bearing liabilities (ASIC), 96
- International Financial Reporting Standards
 - ASIC's adoption of Australian equivalents, 83–84
- International Organization of Securities Commissions (IOSCO), 30–31
- international relations, 28–31
 - key results, 29–31
 - operational summary, 13
 - organisational chart, 11
 - outlook, 31
 - overview, 28
 - Thai-based cold callers convicted, 29–30
- investigations, 14–15, 17
- investment fraudsters, 16

K

- knowledge management, 37, 42

L

- legislation, 46
- liabilities administered on behalf of government, 110
- licensing, 20–21, 23
- liquidators
 - disciplined, 14
 - reports from, 35
- litigation, 15
- lodgement of company data, 34, 36

M

- managed investment schemes, 20–21
- markets regulation and policy, 24–27
 - confidence in financial markets, 3
 - key results, 25
 - operational summary, 12
 - organisational chart, 11
 - outlook, 27
 - overview, 24
- Ministers responsible, 51
- misconduct, fighting
 - complaints, 33–35
 - disciplinary action, 14
 - strategies, 8
- mortgage broking, 29

N

- non-cash financing and investing activities (ASIC), 99
- non-financial assets (ASIC), 93–95

O

- occupational health & safety, 9, 38–39
- office accommodation, 41
- operating expenses, 7, 90–91
- operating revenues, 7, 85–86

- operational summary, 12–13
- organisational chart, 11
- outcomes, reporting of (ASIC), 116–119

P

- Parliament, reporting to, 50
- payables (ASIC), 97
- performance data (six year summary), 60
- property schemes, 15, 29
- prospectuses, 25
- provisions (ASIC), 96
- public affairs, 11
- public and commercial services, 33–36
 - key results, 34–36
 - operational summary, 13
 - organisational chart, 11
 - outlook, 36
 - overview, 33
- publications, 29, 57

R

- radio advertising, 31
- real estate investing, 15, 29
- Regional Commissioners, 11, 55
- regional coordination, 28, 54–55
- regulation, 44–46
- related party disclosures (ASIC), 101
- relief applications, 25
- remuneration (ASIC)
 - auditors, 102, 110
 - Commissioners and executive officers, 101–102
 - staff, 9, 38
- revenues (ASIC)
 - administered on behalf of government, 107
 - collected for Commonwealth, 34
 - operating, 7, 85–86
- risk management, 52–53

S

- schemes of arrangement, 25
- Secretariat, 11
- security, 52
- service expenses, 41
- soft dollar benefits, 29–30
- special accounts (ASIC), 113
- staff, 4, 9
 - accommodation, 41
 - average levels, 103
 - basis of employment, 39–40
 - complaints about, 52
 - development, 9, 38
 - directorates, 12–13
 - diversity, 9
 - equal opportunity, 39
 - ethics, 53
 - funding, 40
 - industrial & workplace relations, 40
 - key results, 38–42
 - leadership, 38
 - location, 40
 - merit, 39
 - occupational health & safety, 9, 38–39
 - outlook, 9, 43
 - overview, 37
 - performance management, 40
 - remuneration, 9, 38
 - skills, 8
 - statistics, 7, 38
 - workloads, 9
- States, relationship with, 51–52
- statistics (six year summary), 60
- statutory boards and tribunal,
 - expenditure relating to, 103
- strategic planning & analysis, 11
- strategies, 8
- superannuation, 15, 31

T

- takeovers, 24–26
- telephone inquiries, 33–34, 36

U

- unclaimed monies, 42

W

- websites (ASIC), 29–30

directory

how to find asic

www.asic.gov.au

For consumers and investors

www.fido.asic.gov.au

Infoline

Information for consumers. Complaints about financial services and products, investors' rights, companies, company directors, auditors, liquidators and company administration. ASIC policy and procedures:

1300 300 630

ASIC Offices

Policy and coordination, enforcement and regulation

Sydney

Melbourne

Brisbane

Perth

Adelaide

Hobart

Canberra

Darwin

GPO Box 9827 in your capital city

Print: ISSN 1448-3416

Online: ISSN 1448-370x

Service Centres

Incorporation, document lodgement, searches & fees

Adelaide

Telephone 08 8202 8500
Facsimile 08 8202 8410

Brisbane

Telephone 07 3867 4900
Facsimile 07 3867 4727

Canberra

Telephone 02 6250 3850
Facsimile 02 6250 3834

Darwin

Telephone 08 8943 0950
Facsimile 08 8943 0960

Geelong

Telephone 03 5229 2966
Facsimile 03 5229 2940

Gold Coast

Telephone 07 5528 1960
Facsimile 07 5528 1968

Hobart

Telephone 03 6235 6800
Facsimile 03 6235 6860

Melbourne

Telephone 03 9280 3500
Facsimile 03 9280 3550

Newcastle

Telephone 02 4929 4555
Facsimile 02 4929 1759

Perth

Telephone 08 9261 4200
Facsimile 08 9261 4210

Sydney

Telephone 02 9911 2500
Facsimile 02 9911 2550

Townsville

Telephone 07 4721 3885
Facsimile 07 4721 3803

Information Processing Centre

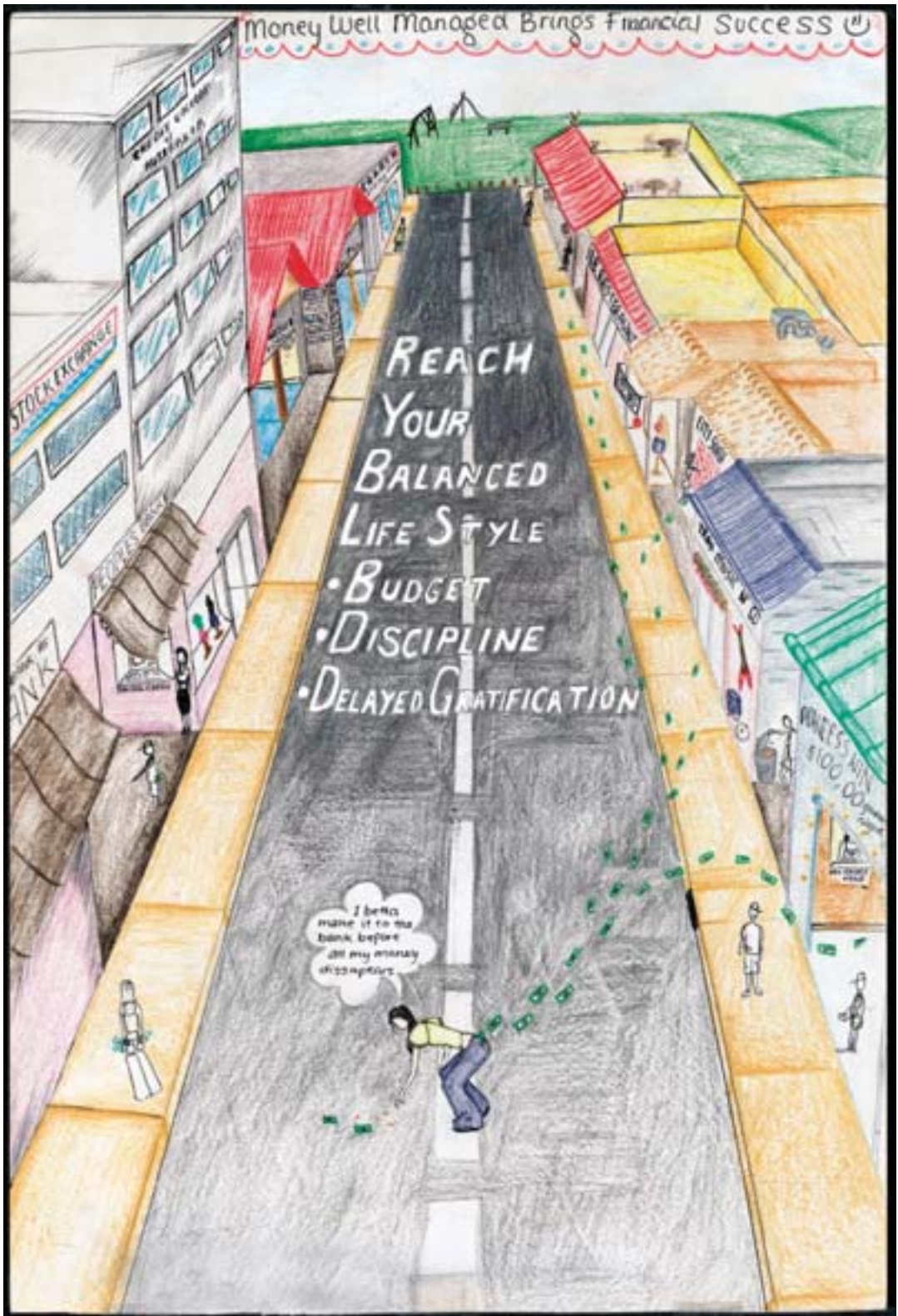
Company annual statements, company compliance, deregistration and reinstatement, National Client Contact Centre

Traralgon, VIC

Telephone 03 5177 3988
Facsimile 03 5177 3999

PO Box 4000

Gippsland Mail Centre VIC 3841



'I wanted to get across that with proper money management you will always have money', said 15-year-old Carolina Barua of Darwin High School, winner of our Northern Territory schools competition, see page 54.