



**ASIC**  
Australian Securities &  
Investments Commission

Senate  
Economics Legislation Committee  
Budget Estimates 2022-2023

ASIC Chair Joe Longo

**OPENING STATEMENT**  
09 November 2022

I am pleased to appear before the Committee once more and welcome Senator Walsh as the new Committee Chair. I am joined today by Deputy Chairs Sarah Court and Karen Chester, Commissioners Sean Hughes and Danielle Press, Chief Operating Officer Warren Day, Executive Director of Strategy Greg Kirk and our General Counsel Chris Savundra.

We value the opportunity to appear before this Committee.

It's timely to be speaking to you today, with ASIC and our enforcement work once again in the public eye. This sort of attention shows just how important the work of ASIC is to the public, the financial and corporate ecosystem, and the Australian economy as a whole.

Our remit is broad and significant. We give careful consideration to how we can deliver on this remit within our resources. Last week at our first ASIC forum in three years (due to the COVID disruption), I spoke about the clarity of purpose underpinning our strategic and enforcement priorities. We developed these priorities to ensure ASIC's finite resources are directed to achieving strong outcomes that address the greatest consumer and investor harms. And we will continue to deliver on those priorities.

For the benefit of new members of the Committee, I'll take a minute to explain ASIC's regulatory remit, functions and oversight.

ASIC has the broadest remit of similar regulators around the world. We regulate corporations, markets, financial services and consumer credit and this seems to be expanding as markets and services evolve.

In essence, ASIC has the function of monitoring and promoting market integrity and consumer protection in the Australian financial system.

ASIC's function complements those of other regulators such as the prudential work of APRA and the competition and consumer work of the ACCC. And of course, you would be aware that in ASIC's criminal investigations, where we believe we have sufficient evidence, we refer the matter to the Commonwealth Director of Public Prosecutions for them to decide whether to commence a criminal prosecution.

Most importantly, through our enforcement work, we hold to account those who contravene the law, and we do this using a broad toolkit.

At last week's ASIC Forum, we outlined our enforcement priorities for 2023. As always, ASIC is deeply committed to enforcement. To re-iterate Deputy Commissioner Sarah Court's comments at the Forum: There has been no lessening of enforcement in the last 12 months. In the last financial year alone, ASIC completed more than 1,000 surveillances and commenced more than 100 investigations. We completed 61 civil litigation actions, secured \$229.9 million in civil penalties and commenced another 75 civil litigation actions. ASIC secured criminal convictions against 33 individuals and commenced another 50 criminal actions.

ASIC also takes protective action, including disqualifying and banning people from directing companies and helping to protect small businesses. We took corrective action to address more than 60 instances of potentially misleading or deceptive conduct in wealth management. We continue to actively target cases of high deterrent value and those involving egregious harm or misconduct.

One of the challenges for a regulator is to strike the right balance. We need to take decisive action, where appropriate, against those who have perpetrated harms on consumers and investors. We also need to focus on deterrence, education and prevention to reduce consumer and investor harms arising in the first place. We don't take this responsibility lightly.

We have new powers following the Royal Commission, which allow us to take stronger action against misleading conduct and reduce the risk of harm to consumers. I'm sure we'll have an opportunity to speak about our DDO work later and the 11 stop orders we have issued under that new power. We have 10 targeted surveillance projects on foot, focused on sectors where we are seeing consumer harm from poor design and distribution practices.

ASIC has played an important role in overseeing remediation activity across the financial system. Over the past six years to September 2022, ASIC has overseen at least \$5.9 billion in remediation for an estimated 7.3 million Australian consumers for failures identified. Around a further \$1.5 billion is yet to be paid to an estimated 2.8 million consumers in remediations ASIC is currently monitoring. Our guidance issued in September of this year is the culmination of this work. It puts the onus on industry to get on with fair and timely remediations, returning money owed to wronged consumers.

I'd like to take the opportunity to speak about consumer concerns, complaints and disputes.

Some investors and consumers have faced terrible outcomes and harms arising from misconduct that is within our regulatory remit. I am acutely aware

that people's financial security can often be on the line. ASIC has secured significant penalties and taken decisive regulatory action, and this is important. We recognise that we cannot be everywhere and so we do think very carefully about our choices. Because we have to be careful about how we use our resources, we cannot investigate every matter that comes to our attention. We have a range of considerations we take into account before we pursue a matter.

To complement ASIC's strong regulatory focus, there is a framework set up by Parliament to ensure consumers have access to a broad and efficient redress system.

The vast majority of consumer concerns, complaints and disputes in the financial sector are resolved through the internal dispute resolution (IDR) mechanisms that financial firms are required to have in place. Those matters which are not resolved through IDR can be raised with the Australian Financial Complaints Authority (AFCA). You would have some sense of the scale of complaints from AFCA's appearance this morning. In the 2022 financial year, for example, AFCA received and resolved more than 70,000 complaints, and achieved more than \$207 million in compensation to consumers.

ASIC plays an important part in the system by overseeing an effective licensing regime, releasing guidance for industry participants, and assessing all the information and intelligence we gather about potential misconduct. Reports of misconduct (ROMs) are an important source of information for our enforcement work. We also use ROMs together with the much larger IDR and AFCA data sets to identify patterns and trends and broader systemic problems that may require ASIC intervention.

We are also administering a new reportable situations regime which commenced on 1 October 2021. This will further complement the intelligence we are able to consider in delivering on our regulatory and enforcement priorities. ASIC's first report under that regime published late last month shows that some improvements are needed and that more work needs to be done to appropriately identify and report the root cause of breaches.

Our responsibilities are set to expand further with the soon-to-be introduced Financial Accountability Regime (FAR) and our expanding involvement in crypto regulation.

I have much more I could say on our strategic priorities, including our work on crypto assets and greenwashing and some ground-breaking regulatory activity we are undertaking there. I'm sure we'll have the opportunity to answer your questions on these areas of focus.

I'd also like to note that in addition to Senate Estimates, ASIC is subject to multiple layers of oversight:

- the Parliamentary Joint Committee on Corporations and Financial Services has oversight of ASIC and the Corporations legislation. In addition to regular hearings, this committee frequently conducts inquiries on specific topics, including enforcement
- our Annual Reports and activity are subject to review by the House of Representatives Standing Committee on Economics
- we respond to inquiries into ASIC's conduct and specific matters by the House of Representatives Standing Committee and the Senate Economics References Committee.
- ASIC has some powers to issue legislative instruments where needed, and these are subject to Parliamentary oversight by the Senate Standing Committee for the Scrutiny of Delegated Legislation
- and there is of course Ministerial oversight.

ASIC has an industry funding model. We publish a Cost Recovery Implementation Statement (CRIS) annually which explains how we recover the costs of our regulatory activities from each industry subsector under the funding model. The CRIS ensures we are transparent about our estimated costs and levies and helps industry participants plan and budget for this. The industry funding model is currently the subject of a government review announced earlier this year, led by Treasury. ASIC is supporting the review.

Finally, following the Royal Commission, government established the Financial Regulator Assessment Authority (FRAA). This body is tasked with reviewing ASIC every two years.

This year, the FRAA undertook its first assessment of ASIC's work and operations, and its report was tabled by the Government on 25 August. The FRAA acknowledged ASIC's contribution to Australia's financial system and found us an effective and capable regulator in the space, noting that we have the largest remit of any comparable regulator globally.

The FRAA made four recommendations around enhancing our use of data and technology, strengthening our engagement with stakeholders, enhancing our ability to measure effectiveness and capability, and continuing to broaden our mix of skill sets. These are areas we had been working on and are working on right now.

In addition to this external oversight, ASIC is also transparent about what we are doing and planning to do. Where we can do so, without prejudicing our investigations, we also publicly comment on our work and we are not afraid to call out wrongdoers. We have developed strategic and enforcement priorities and launched our Corporate Plan in August, and of course our Annual Reports are public documents, so we can be held accountable in those ways too.

This robust oversight helps to ensure that we are constantly reflecting and reviewing our processes to remain a fit-for-purpose, active regulator.

We look forward to answering the Committee's questions.