



ASIC
Australian Securities &
Investments Commission

Senate Economics Legislation Committee

2024-2025 Budget Estimates

ASIC Chair Joe Longo Opening Statement

4 June 2024

Thank you for the opportunity to appear here today at Senate Budget Estimates. I am joined today by Deputy Chair Sarah Court and commissioners Kate O'Rourke, Alan Kirkland and Simone Constant. Also present today are Chief Executive Officer, Greg Yanco (appearing for the first time in that role today); our General Counsel, Chris Savundra; and our Chief Financial Officer, Peter Dunlop.

Budget funding for ASIC

ASIC welcomes the additional funding it received from this year's Federal Budget.

This funding will further enhance the delivery of our priorities to benefit Australian consumers and investors and will allow us to support the introduction of government priorities.

I will briefly run through the key areas of new funding for ASIC.

Business registers

In late May 2024, the ATO transferred to ASIC responsibility for the companies, business names and other business registers. ASIC has been provided funding in this budget to stabilise these legacy business registers.

Funding has also been provided to identify and plan for uplifts to these registers, noting many are very old and it is critical that Australia has reliable, secure and trusted registry platforms to support economic activity.

ASIC's digital transformation

In that respect, ASIC's digital transformation remains of fundamental importance. Our vision at ASIC is to become a leading digitally enabled and data-informed regulator by 2030. To support this vision, we have commenced a digital transformation program that received initial funding in the recent federal budget to secure ASIC's regulatory systems.



ASIC
Australian Securities &
Investments Commission

We will now move to implement these initiatives, including a new “threat intelligence platform” to improve information collection and real-time detection of internal and external cyber threats.

To continue on our journey to make ASIC increasingly data informed and data enabled, further investment in our systems and technology is critical. To ensure smarter and more effective regulation, supervision and enforcement, we are also looking at the responsible use of emerging technologies such as artificial intelligence, machine learning, big data, predictive coding and cyber protection tools.

Going forward we continue to work on the plan to uplift our digital data and insights capability and using digital tools to improve our interactions with those that we regulate.

Supporting government initiatives

ASIC has been provided funding to contribute to the following government initiatives:

- Fighting scams. ASIC is a key partner in the multi-regulator model being developed.
- Promoting sustainable finance. ASIC has been provided additional funding to address greenwashing, contribute to the council of financial regulators’ work on sustainability- related data challenges and to develop a sustainable investment product labelling regime.
- Modernising digital assets and payments regulation.
- Regulate and promote the proposed new beneficial ownership transparency requirements.
- Support the continuation of the website for consumers in north Queensland to compare home insurance policies.

Financial hardship

ASIC has recently released two significant pieces of work to support better outcomes for vulnerable Australian consumers who are experiencing significant financial hardship.

Our major review of the practices of home lenders found the lenders aren’t doing enough to support their customers experiencing financial hardship.

In the worst cases, ASIC found lenders simply ignored hardship notices, effectively abandoning customers who needed their support in a time of need.

I want to detail one of the most egregious case studies we came across in our investigation.

A customer who had a casual job and held a home loan for over 18 years started to fall behind on their mortgage payments and contacted their lender. The lender repeatedly failed to recognise the customer’s need for hardship assistance.



ASIC
Australian Securities &
Investments Commission

The customer provided the first four hardship notices in four separate calls with the lender's collections team, over a five-month period, as they were not able to make the mortgage payments mainly due to needing to take time off work.

None of these calls resulted in a referral to the lender's hardship team.

The customer continued to be bounced from call centre to a branch, and back to the call centre before they were transferred through to the hardship team.

Although the customer had provided six hardship notices over six months, only the last notice was identified and recorded as a hardship notice by the lender.

This is not good enough. Lenders need to do better to help Australians doing it tough.

As part of our investigation, we have provided individual feedback to lenders who were part of this review. We have asked the lenders to prepare an action plan outlining how they intend to respond to the issues we have raised.

We are considering further regulatory action in relation to the issues identified as part of the review to better support consumers.

Yesterday, ASIC's Moneysmart also launched a consumer awareness campaign to build awareness of financial hardship assistance and encourage Australians experiencing difficulty in making loan repayments to ask for hardship assistance from their lender.

Consumers at the heart of ASIC's enforcement and regulatory activity

As I have said to this committee before, barely a day goes past that ASIC isn't in a court across the country, holding individuals and entities to account.

To give the committee some examples of some of our significant recent enforcement outcomes let me give you one particular case study:

Recently Daniel Ali, the former director of DanFX Trade, pleaded guilty and was sentenced to 7 years and 3 months imprisonment for misappropriating \$771,000 of investor funds. Mr Ali was a Gold Coast-based unlicensed FX trader who raised about \$13m from 200 investors through an unregistered MIS.

The misconduct took place in 2016 and 2017. In late 2017, ASIC took civil proceedings to obtain injunctions, appoint receivers and seek travel restraint orders. In 2018, ASIC wound up the scheme and associated companies, and obtained declarations against Mr Ali personally. However, Mr Ali left Australia before the civil proceedings concluded.



ASIC
Australian Securities &
Investments Commission

ASIC then worked up a criminal brief and referred the matter to the CDPP. An arrest warrant was issued. We worked with the CDPP, AFP and AGD to issue red notices and locate Mr Ali overseas. In November 2021 he was arrested in Poland, and in August 2022 he was extradited to Australia to face the charges.

Mr Ali has now been sentenced and is serving prison time. Once released, he will be permanently banned from financial service and credit, and permanently restrained from managing corporations.

This long-running matter is a good case study for the perseverance required, and the time it can take, to secure such a conviction. It is of course just one matter of many.

NGS Crypto companies

On the civil side, we have recently taken legal action against three blockchain mining companies NGS Crypto, NGS Digital and NGS Group. ASIC's action has resulted in the court freezing the digital currency assets of the companies and appointing receivers to manage these assets. We also secured an order to prevent one of the directors from leaving Australia.

Cigno Group, BHFS/BSF and their directors

Enforcement action alone may not always be effective in responding to and deterring those who are committed to avoiding the requirements of the law. ASIC has deployed much of its enforcement toolkit including its product intervention powers against the unlicensed credit activity by the Cigno Group, BHFS/BSF and their directors. In these cases, those responsible for the alleged misconduct have continued to test the regulatory perimeter and continue to re-emerge with novel credit models.

Most recently, the federal court found Cigno and BSF solutions engaged in credit activity with an Australian credit activity without an Australian credit licence and charged consumers prohibited fees. The court also found that Cigno Australian director Mark Swanepoel and BSF Solutions director Brenton Harrison were involved in the unlicensed activity and other Credit Act breaches.

ASIC's persistent and co-ordinated regulatory and enforcement actions in these cases, sends a strong signal to others in our regulated population that we will continue to take action.

Cold calling for superannuation and advice fee deductions

Last month we also issued a warning and significant report into questionable cold calling conduct eroding the balances of superannuation members.



ASIC
Australian Securities &
Investments Commission

Our review uncovered considerable volumes of superannuation fund movement as a result of cold calling conduct with concerning behaviour that high-pressure sales tactics are being used by some cold calling operators to lure consumers into receiving inappropriate superannuation switching advice. This comes with significant fees attached.

We also put superannuation trustees on notice that they have a way to go to protect members from unscrupulous operators amid evidence of inadequate oversight of advice fee deductions.

ASIC's review found over \$990 million in advice fees charged across more than 476,000 member accounts with caps as high as 5% of a member's balance - were in place, with few trustees implementing controls to protect members with low balances.

This is part of our priority focus on superannuation funds and their trustees right now. Trustees must have risk-based controls, systems and processes in place to ensure there is not member service delivery failure that leads to damaging erosion of members balances or falls short of the law. In this regard we have released phase one of our multi-phase surveillance of the handling of death benefits and this will continue to be a core priority for ASIC.

Changes and renewal

Finally, I want to acknowledge that since our last appearance in February 2024, there have been some leadership changes at ASIC.

Today you will notice the absence of a senate estimates regular for ASIC over the years, CEO Warren Day. Warren has been a regular at estimates for ASIC since 2010.

Warren has taken on an executive role with one of our key partner agencies, the Commonwealth Director of Public Prosecutions (CDPP) to lead significant change.

Warren has made a great contribution to ASIC over the past twenty years and has been a loyal and trusted adviser to the current and previous commission.

I have no doubt he will leave a legacy at the CDPP, as he has at ASIC.

Our acting CEO is Greg Yanco, who will be familiar to you.

Although it is difficult to see our colleagues move on, we have outstanding leaders throughout the agency ready to step up to drive the next phase of ASIC's transformation.

We look forward to answering the committee's questions.