

Senate Economics Legislation Committee
Budget Estimates 2006-2007
29 May to 1 June 2006

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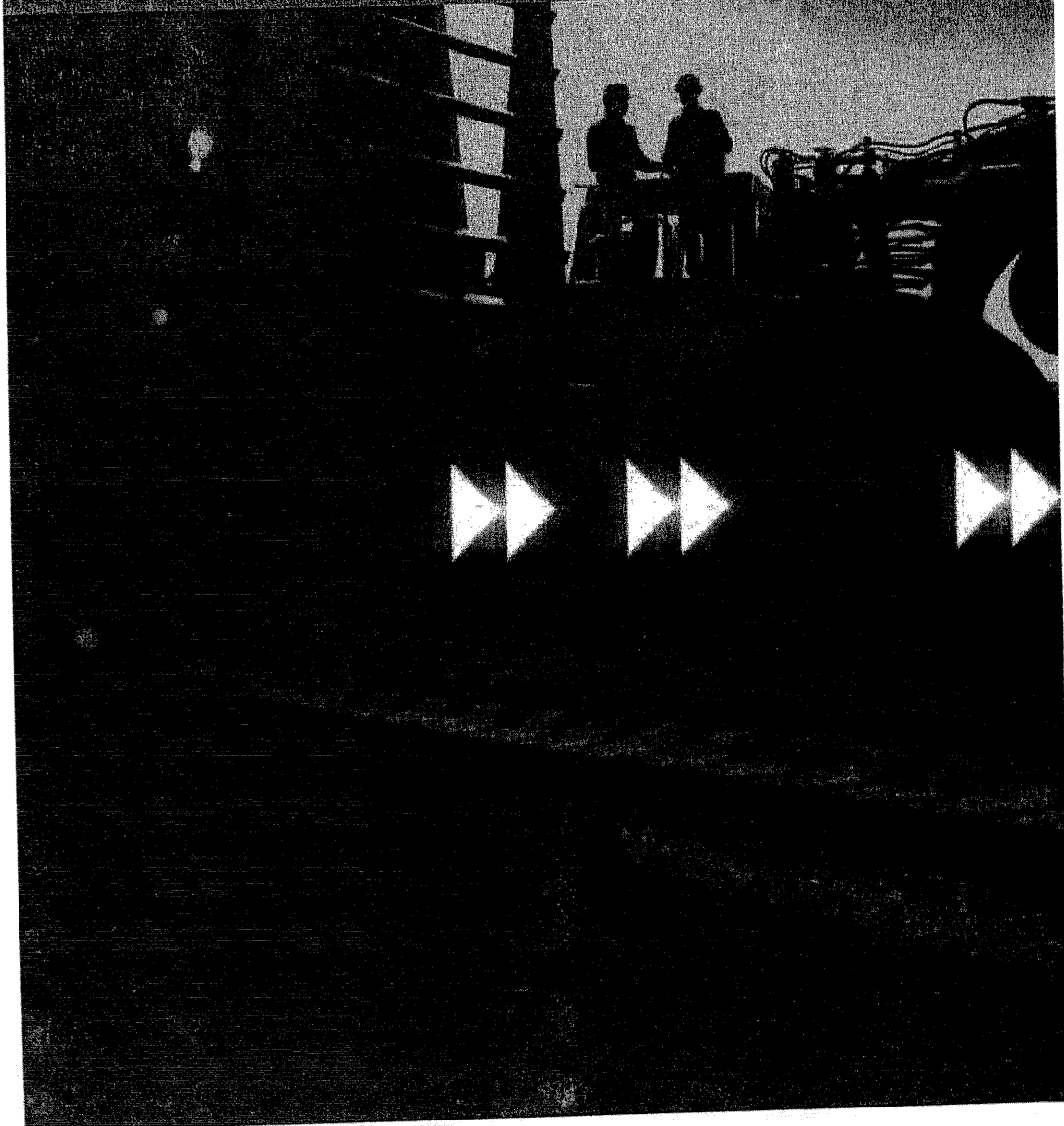
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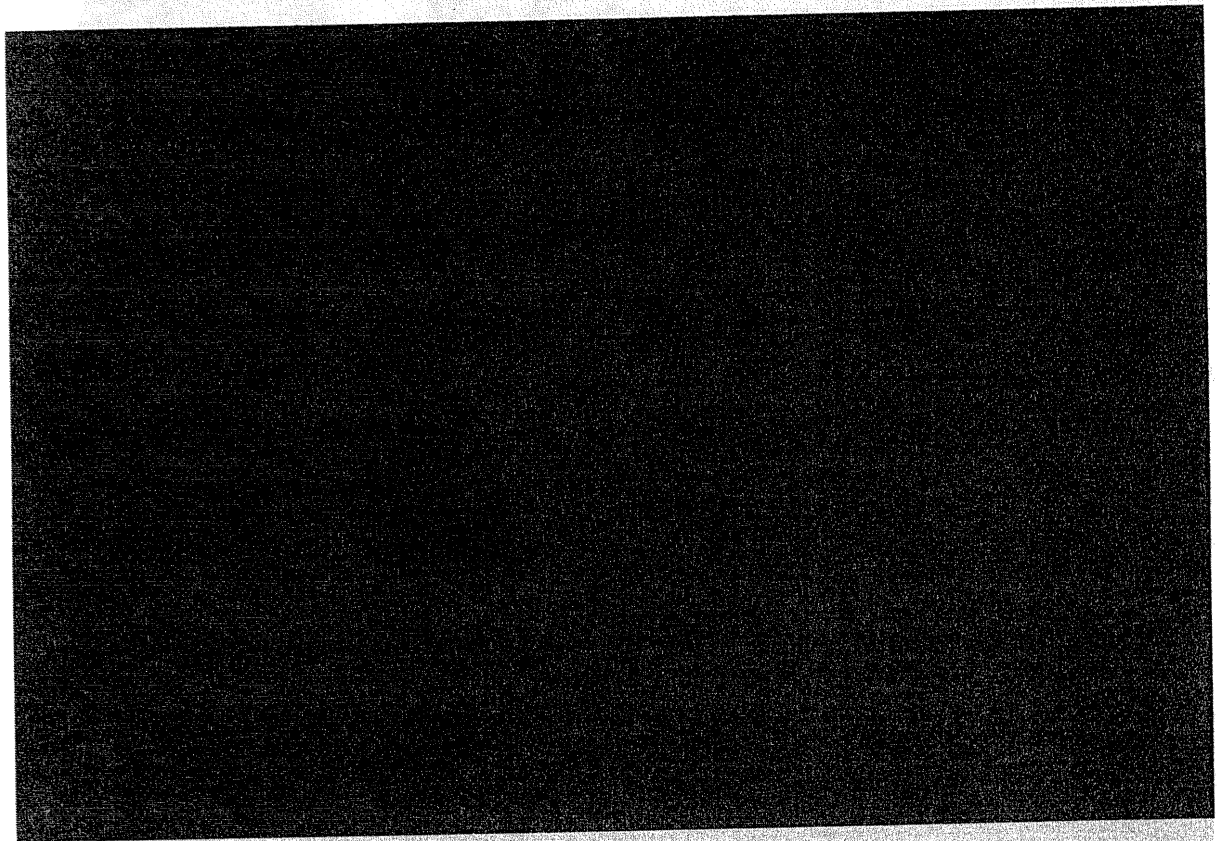
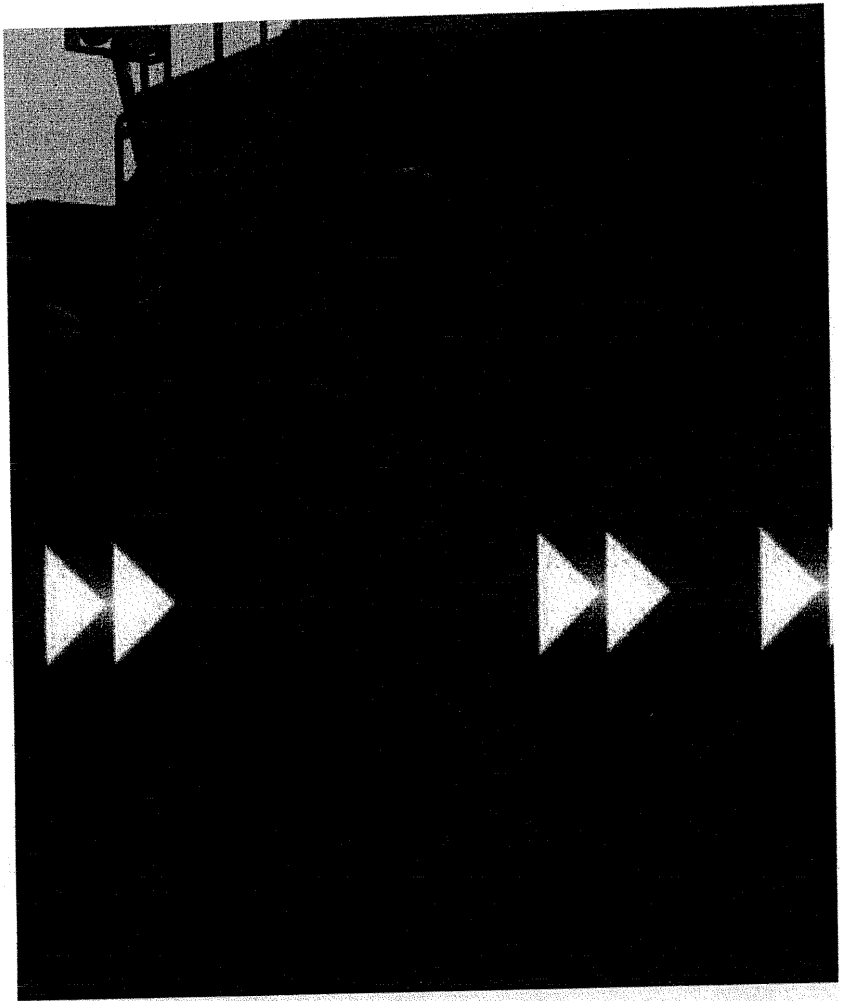
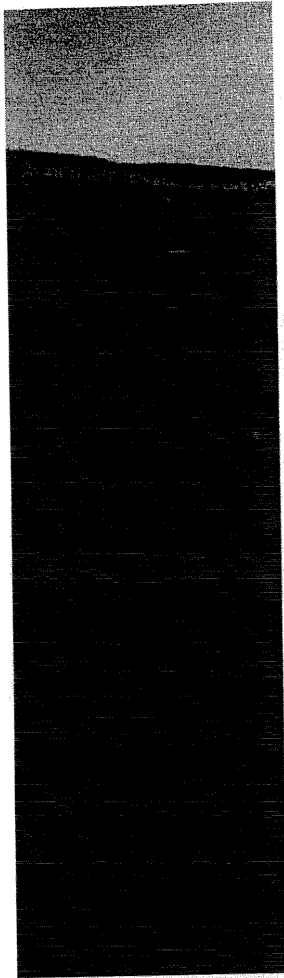
By: Australian Securities & Investment Commissioner
Date: 31/5/06

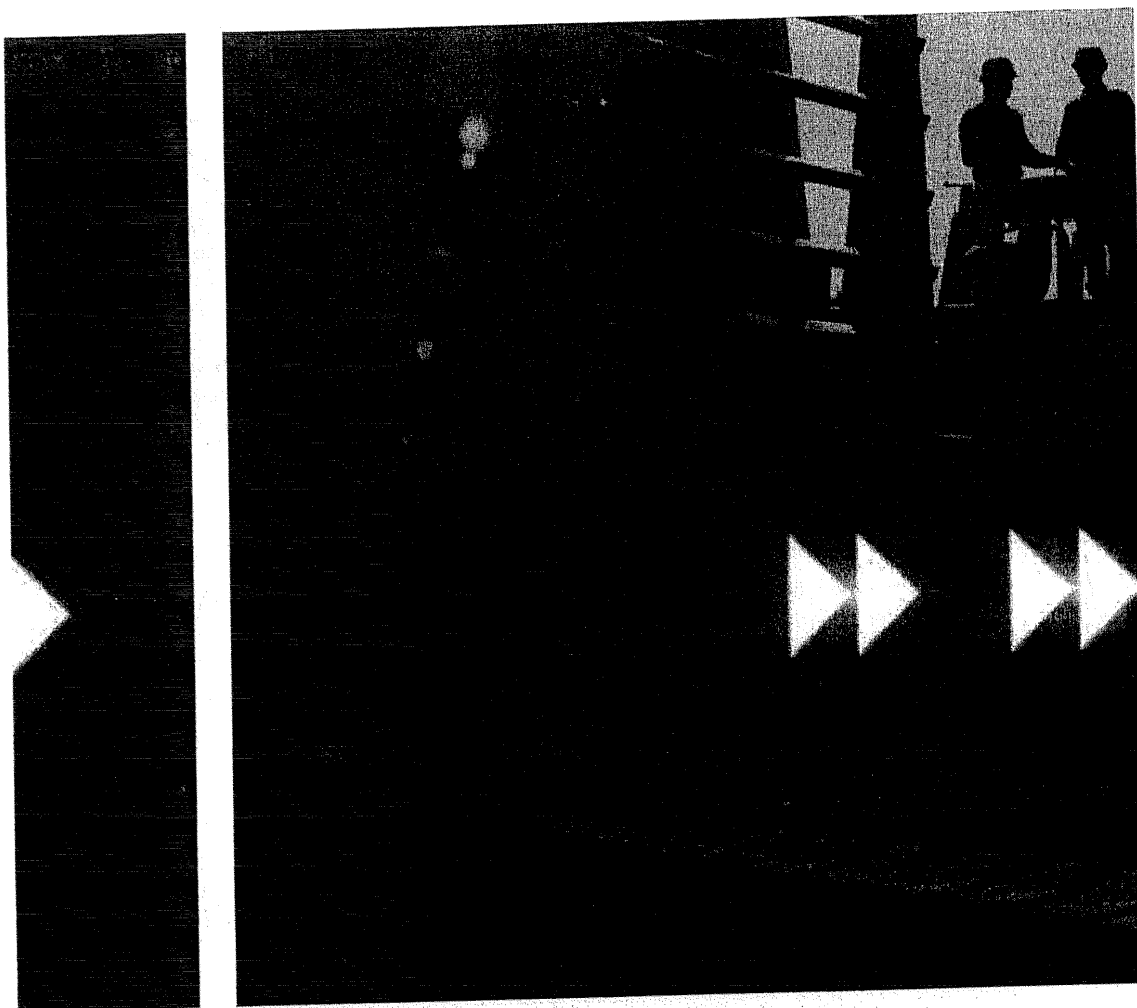


ASIC
Australian Securities & Investment Commission

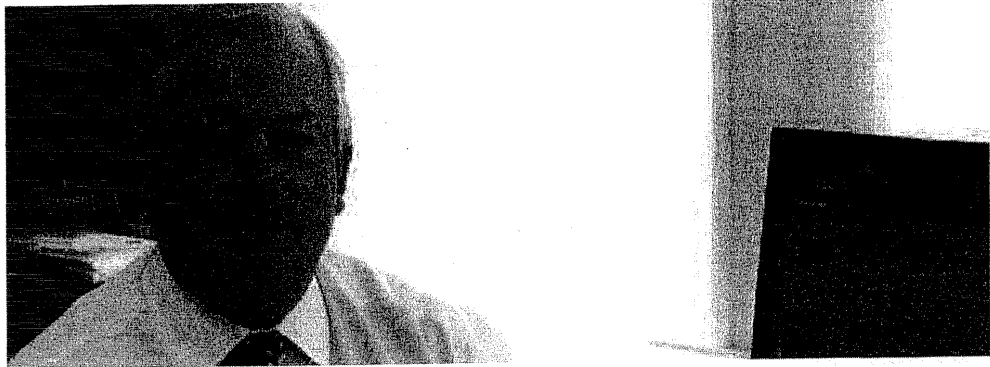
Better Regulation ASIC initiatives







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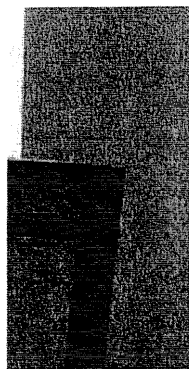
Dear Reader

The whole community benefits from well-regulated corporations, capital markets and financial services. Australians can take comfort in the success of our markets and our regulatory system, but we must always see if we can do better. In this booklet, we outline how ASIC can play its part in achieving better regulation and invite your comments.

What should good regulation deliver?

These are the hallmarks of a sound regulatory environment:

- Companies can get on with doing business confident that the same rules apply to everybody. They can seek capital in Australian markets at rates that are broadly competitive with leading world markets and without paying a significant market risk premium.
- Financial products and services businesses can operate profitably and efficiently, while treating customers honestly and fairly. Being in a well-regulated market helps them do business across borders.
- Financial markets are well respected and attractive internationally, and clean, fair and reliable.
- Everybody can find and understand their obligations.
- Investors and consumers participate confidently in our financial system, using reliable and trustworthy information to make decisions, with ready access to suitable remedies if things go wrong.
- The community is confident that markets, corporations and the businesses involved in them operate efficiently and honestly and contribute to improving Australia's economic performance. Firm action is taken against fraud, dishonesty and misconduct. The regulatory system is respected.



Foreword

By ASIC's Chairman, Jeffrey Lucy AM

Where to from here?

Our regulatory system compares well with the leading markets of the world. However, right now there is also a lively and healthy debate about the cost and impact of regulation generally.

We have listened carefully and learned much from the views expressed about us and about the regime we administer. We will be looking for better, more efficient and effective ways of doing things.

Australia and many other countries have experienced complex changes in regulation recently and people are looking for simpler and clearer answers.

The ASIC Act requires ASIC to strive to maintain, facilitate and improve the performance of the financial system and the entities in it, in the interests of commercial certainty, reducing business costs, and the efficiency and development of the economy. We must also promote the confident and informed participation of investors and consumers in the financial system.

ASIC's Better Regulation initiatives, when implemented, will make the system smoother and easier to work with. We also want to ensure that you know how ASIC regulation affects your business or your investment, and that you find us easier to deal with.

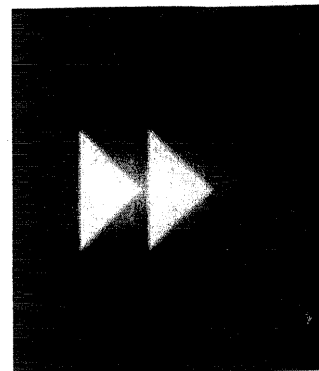
We are already working towards delivering these objectives, but we still have more to do. This booklet summarises what we have done and outlines our plans for future work.

If you have any ideas or suggestions about how we might continue to improve regulation in Australia, please email us at betterregulation@asic.gov.au.

Jeffrey Lucy AM
Chairman
April 2006



Our priorities



ASIC strategic plan and values

Our strategic plan for 2005–2010 (at www.asic.gov.au) sets out five key strategies for ASIC to respond to the challenges ahead. We will:

- help consumers make better financial decisions
- strengthen the integrity of Australian corporations
- sustain confidence in our financial markets
- unlock new value from public information
- create a more flexible organisation.

Each of these goals and strategies is supported by key measures of success to help check if the strategies are working.

The strategic plan also identifies the values we uphold as an organisation—to be **strong, fair and progressive**.

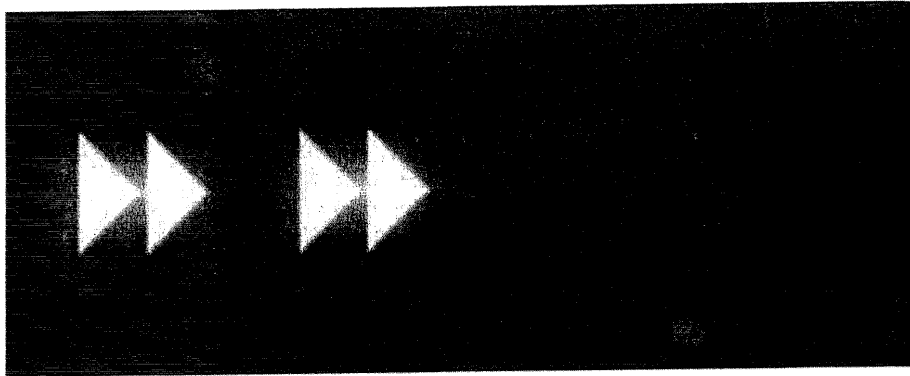
Aims for better regulation

Better regulation is essential to achieve our strategies.

We are committed to these aims:

- reducing the regulatory burden on business
- getting better outcomes for consumers and investors
- making our regulatory approach and processes more transparent
- minimising duplication
- better analysing the impact of what we do
- making it easier to deal with us
- making our regulation easier to understand, and our publications clearer and easier to find
- communicating clearly and effectively about what ASIC does.

ASIC regulates a broad and complex range of markets, corporations, products and services. As part of our commitment to better regulation, we have identified six priorities.



Our priorities and what they mean for you

1 Transparency	You can see how we are organised, who makes decisions, how they are made and how our decisions tie into the role Parliament requires ASIC to play.
2 Accessibility	You can find out what decisions we have made, understand our policy and approach, and contact the people in ASIC who can best deal with your issues.
3 Less duplication and overlap	You can help us identify and reduce areas where our regulation duplicates or overlaps with other regulators.
4 Business impact	We will better understand the impact of our regulation on the people and entities we regulate, and will use more reliable and relevant information in making decisions.
5 Streamlining and less paperwork	You can deal with us more efficiently. We will reduce paperwork, make better use of electronic communications, and improve and streamline our processes.
6 Engagement with stakeholders	You and your representatives will be effectively and efficiently consulted, so that we fully understand your views when we make regulatory decisions.



1 Transparency

Transparency adds to the overall efficiency of the regulatory process, making it easier to see how the regulatory system works, how the regulator is organised and how it makes decisions.

What we have done

Where the law gives us discretion in how we apply it, ASIC has regularly published guidance documents such as policy statements, guides and information sheets. You have told us that you value more precise guidance. Here are some of our recent publications.

Guidance on infringement notices

Continuous disclosure obligations: Infringement notices—An ASIC guide (2004) explains how the infringement notice process works and how we administer the regime.

Guidance on breach notifications

Breach reporting by AFS licensees—An ASIC guide (2004, updated 2006) explains the processes we follow when we receive notification of a breach of the obligations of a financial services licensee.

Guidance on super switching advice

Super switching advice: Questions and answers—An ASIC guide (2005) answers some common questions about super switching advice.

Example of a Statement of Advice

Example Statement of Advice—An ASIC guide (2005) illustrates clear, concise and effective advice and disclosure in a financial advice document.

Guidance on administrative action

Licensing: Administrative action against financial services providers—An ASIC guide (2006) explains the remedies we have available and the matters we take into account when exercising them.

We will give priority to helping you see how we are organised, who makes decisions, how they are made and how our decisions tie into the role Parliament requires ASIC to play.

What we plan to do

Publishing a service charter

We will publish a service charter to explain what you can expect when dealing with ASIC, and how we will approach various aspects of our service delivery.

Explaining how ASIC works

We will publish further information for you about:

- how some of our most important processes work, for example:
 - policy making
 - compliance checking and surveillance
 - information gathering
 - investigations
- how we are accountable for what we do
- how we perform against some key efficiency indicators
- how we are organised.

We will also review our guidance on enforceable undertakings, and provide example documents for industry and advisers.



2 Accessibility

We will give priority to making it easier for you to find out what decisions we have made, understand our policy and approach, and contact the people in ASIC who can best deal with your issues.

What we have done

Stocktake of regulatory documents

We have done a stocktake of all the types of regulatory documents we currently publish. They include policy statements, policy proposals, draft and interim policies, information releases, frequently asked questions, and guides.

What we plan to do

Rationalising and redesigning our regulatory documents

We will reduce the different types of documents we publish to a smaller agreed set, and design new and simpler templates. You will have fewer types of documents to deal with, and will find it easier to see what each type of document is and how to use it.

Making our regulatory documents easier to find

We will also develop and publish a 'road map' for our documents so you can be confident you have found all the relevant material on a topic.

Refreshing our website

We will rebuild our website (www.asic.gov.au), so that it is easier for you to navigate and search.

3 Less duplication and overlap

We will give priority to identifying and resolving areas of regulatory duplication or overlap with other domestic and overseas regulators. We aim to achieve complementary approaches with overseas jurisdictions on cross-border issues.

What we have done

Identifying and minimising duplication between ASIC and APRA

We liaise regularly with the Australian Prudential Regulation Authority (APRA) about emerging regulatory issues and coordinate enforcement activities in which each agency has an interest.

We have also recently formed a Joint Working Group, led by senior staff from each agency, to identify and work towards resolving regulatory duplication or overlap. The group is currently working on areas where you have identified duplication (for example, data collection, financial reporting, licensing, and breach reporting).

Data matching with ITSA

Since 2004 we have cooperated with the Insolvency and Trustee Service Australia in automated data matching to identify bankrupts who are or become office holders in the entities we regulate, to enable us to take appropriate action.

Cooperation with US PCAOB

We are working with the US Public Company Accounting Oversight Board to streamline the audit inspection process for Australian companies that raise capital in the US. This will relieve these entities of a significant compliance burden.

Mutual recognition with New Zealand

We are assisting the Government with legislation to allow Australian offer documents to be used in New Zealand and vice versa, and to remove duplicated company filing obligations between the two countries.

What we plan to do

Minimising duplication between ASIC and APRA

We will continue to work with APRA on areas of perceived overlap including financial reporting, data collection, licensing, and breach reporting. We will publish agreed solutions to the problems we identify and, where legislative change is not required, a timeframe for implementation.



4 Business impact

We will give priority to better understanding the impact of our regulation on the people and entities we regulate, and using more reliable and relevant information in making decisions.

What we have done

We already comply with the Government's requirements by preparing regulatory impact statements that meet the standards set by the Office of Regulation Review.

We have looked at world's best practice in business impact and regulatory impact analysis, and considered what types and models of analysis might be most useful for us.

What we plan to do

We aim to develop greater expertise in systematically analysing the impact of our regulatory decisions on business. When considering options to deal with regulatory problems, where possible, we will quantify the business costs of each option and use that cost information in our decision making.

We will work with industry to develop effective measures of business costs incurred in complying with the laws we administer and the policies and guidance we issue.

We will use this impact analysis methodology to help us decide how best to plan and allocate resources to our regulatory interventions.

We will continue to monitor methodologies that other domestic and international regulators use to assess the business impact of regulatory activity, and help build a best practice regulatory environment in Australia.

5 Streamlining and less paperwork

We will give priority to alleviating the regulatory burden on you by ensuring our dealings with you are efficient. We will reduce paperwork, make better use of electronic communications, and improve and streamline our processes.

What we have done

Less paperwork for licensing

We have launched a new Financial Services Licensing Kit and adopted a streamlined approval process for licence applications. You can apply online with only some core information, and we ask for more detail in only a minority of cases. This has reduced the paperwork required by more than 50%.

Easy lodge electronic lodgement

Our easy lodge service allows you to change company details online, request company extracts, and check the details we hold about your company. We have automated the lodgement of forms commonly used by the 1.43 million companies we regulate. You can lodge online the most commonly used financial services forms, as well as all external administration forms.

Using technology in web surveillance

We have developed software with the University of Sydney, Macquarie University and SMARTS Pty Ltd to trawl the internet seeking potential investment scams, illegal schemes and seminars. Through this technology, we have greatly increased the number of web documents we examine, and discovered more suspect sites, which we may target for further investigation.

Checking compliance based on risk

We have revamped the way we approach compliance and surveillance work, adopting a standard risk assessment framework to target areas of greatest investor and consumer risk. This framework allows us to determine levels of entity and transaction risk, and helps us decide whether we should educate, monitor, or intervene.

What we plan to do

Electronic lodgement services

We will convert many of our paper processes into electronic lodgement services. For example, we will deliver an electronic registration and payment service for the 120,000 company charges and approximately 50,000 related documents we receive and process every year. Charge holders will be able to register charges, change details of charges and discharge them online.



6 Engagement with stakeholders

We will give priority to making sure you and your representatives are effectively and efficiently consulted, so we fully understand your views when we make regulatory decisions.

What we have done

We have well-established and extensive liaison arrangements across all of our regulated population, at Commission, executive and operational levels. These include a Consumer Advisory Panel which advises ASIC on consumer issues and gives feedback on our policies and practices.

In 2005 we reviewed our national and regional industry liaison arrangements. Our new arrangements in the financial services sector involve regular liaison with key industry associations, periodic consultation with the industry collectively, and liaison with senior technical and operational staff.

We have also established a Chairs Committee of the chief executives of the Big Four accounting firms and representatives of the accounting professional bodies. This committee meets regularly to facilitate communication and provide leadership in the industry.

What we plan to do

We will design standard liaison strategies for all our stakeholders, including financial services, capital markets and accounting, with adjustments to deal with different needs, dynamics and resources of different groups.

We will also establish a Business Consultative Panel with chapters in Sydney and Melbourne, involving senior business representatives. This panel will help us identify emerging risks and trends in the market, and give us feedback on our activities and future plans.



Key dates

By 30 June 2006

We will:

- publish on our website the 'ASIC Service Charter'
- publish on our website a guide to 'Understanding ASIC', with information about how we are organised and how we are accountable
- complete our examination of best practice models of business impact and regulatory impact analysis.

By 31 December 2006

We will:

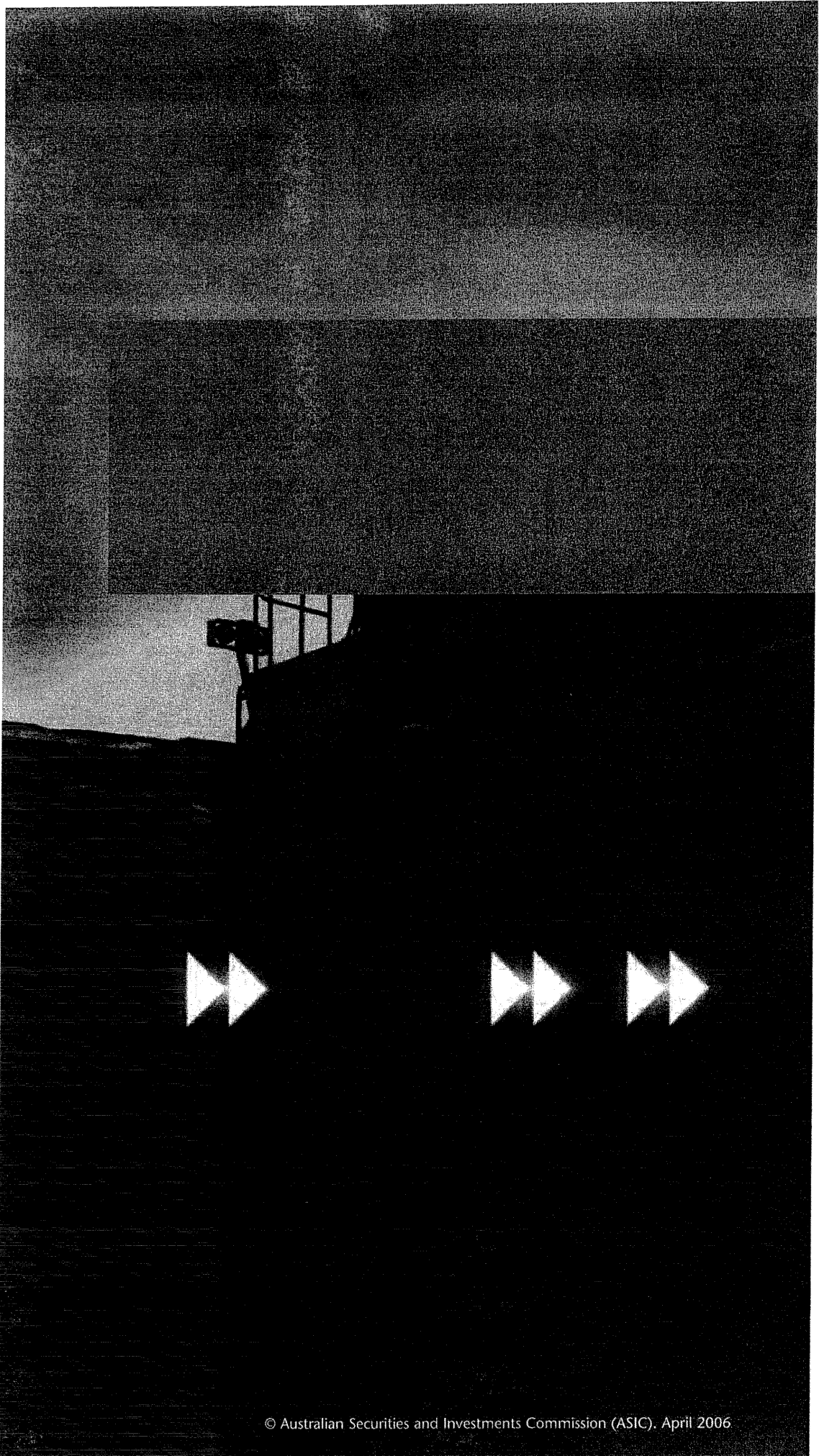
- publish agreed solutions to instances of duplication or overlap between ASIC and APRA and, where legislative change is not required, a timeframe for implementation
- publish efficiency indicators for the most common applications we receive from you, and report on our performance against each one (continuing to report yearly in our annual report)
- reduce the number of types of documents we publish into a smaller agreed set, and design new and simpler templates
- review our guidance on enforceable undertakings, and provide example documents for industry and advisers
- publish explanations of how some of our most important processes work
- design standard liaison strategies for all our stakeholders, with adjustments to deal with different needs of different groups
- establish a Business Consultative Panel to help us identify emerging risks and trends in the market.

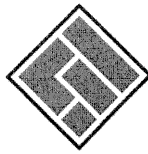
By 30 June 2007

We will:

- develop and publish a 'road map' so you can more easily find relevant documents
- develop and apply a methodology to more systematically analyse the impact of our regulation
- deliver an electronic registration and payment service for company charges and related documents.







ASIC

Australian Securities & Investments Commission

Senate Economics Committee

Speaking Notes: ASIC Opening

Canberra, 31 May 2006

- Mr Chairman, members of the Committee

- in attendance:
 - Jeremy Cooper, Deputy Chairman
 - Mark Steward from Enforcement (attending if the Committee wishes to pursue its interest in the Westpoint Group, the actions in respect of which Mark is leading internally)
 - at the outset, I note that we trust that the Committee understands that, given our current and ongoing investigations into the Westpoint Group, we may need to be somewhat circumspect in our answers to particular questions to ensure that our investigations are not prejudiced, with the exception, of course, of historical matters

- it has been only three months since our last appearance on 16 February 2006 before the Committee and we are due to shortly appear before the Parliamentary Joint Committee as well on 13 June 2006
 - therefore, I have no intention to go into detail of our activities and achievements of the last quarter, which is to be reflected shortly in our end-of-year reports

- I would like to mention, however, a matter that is unlikely to have come to the attention of members of the Committee
 - the Australia-Indonesia Partnership of Reconstruction and Development's Government Partnership Fund of \$1 billion supports Indonesia's reconstruction and development efforts following the effects of the tsunami

- \$50 million under this fund has been set aside for a five-year program that will assist Indonesia in economic, financial and public sector management through the exchange of skills and expertise between Australia and Indonesian government agencies
 - ASIC has successfully applied for a grant of more than \$1 million under this fund, which covers internal and external secondments between ASIC and the Indonesian Capital Markets Supervisory Agency, Bapepam
 - there are currently eight Bapepam secondees at ASIC (the World Bank kindly made additional funds available to host two of these secondees)
 - the program is designed to build capacity with Bapepam in the areas of prospectus, enforcement and market surveillance
 - the program is being viewed as a pilot program with a broader objective of ASIC providing technical assistance in the region and producing increased financial stability in doing so
 - one highly experienced ASIC officer will go to Jakarta in June for three to six months to provide technical 'on-the-ground' advice and support in developing and implementing action plans in consultation with Bapepam senior management
 - ASIC will be meeting with the new Chairman of Bapepam at an upcoming IOSCO Annual Conference in Hong Kong to discuss the program and ensure that it continues to deliver on the aim of capacity building for the agency and I intend to travel to Indonesia during the term of our staff member's secondment
 - ASIC remains vigilant in managing security and safety issues for both staff and the confidential information we obtain in undertaking our regulatory activities
- I would also like to take the opportunity to table our *Better Regulation: ASIC Initiatives* booklet, which we launched earlier this month outlining a number of regulatory enhancements we intend to deliver as part of our agenda for the next 18 months
- this has been broadly circulated, including to members of this Committee
- Thank you