



## ASIC's Statement of Intent

This Statement of Intent outlines the response of the Australian Securities and Investments Commission (ASIC) to the Government's Statement of Expectations on ASIC's role, responsibilities and relationships with stakeholders. It also reflects on operational matters, and issues of transparency and accountability.

We welcome the Government's [Statement of Expectations](#) (SoE) and its commitment to ASIC's independence. In particular, we support the Government's view that we should continue to act independently and objectively in the exercise of our powers.

### Our role

Our vision is for a fair, strong and efficient financial system for all Australians.

**Regulatory mission:** To realise our vision we will use all our regulatory tools to:

- change behaviours to drive good consumer and investor outcomes
- act against misconduct to maintain trust and integrity in the financial system
- promote strong and innovative development of the financial system
- help Australians to be in control of their financial lives.

**Registry mission:** To realise our vision we will provide efficient and accessible business registers that make it easier to do business.

We aim to be a strategic as well as a forceful regulator by:

- using our finite resources to address serious harms and produce the greatest impact on industry participant behaviour and consumer and investor outcomes
- adapting and evolving as circumstances change.

We work to ensure financial services providers act professionally, treat consumers fairly and prioritise consumers' best interests; and issuers provide financial products that meet consumers' needs.

**Note:** The following sections are based on the structure of the SoE and, for ease of reading, reference the paragraphs of the SoE to which they respond.

### Our regulatory approach

We have a number of regulatory tools available to us to address the risks and harms that threaten good consumer outcomes and fair and efficient markets. These include: enforcement action, supervision, surveillance, engagement with industry and other stakeholders, guidance, education and policy advice. For most of the issues in our remit, we will use a number of these tools to achieve the solution. [SoE paras 7–9]

Our new threat, harm and behaviour framework is a process that identifies regulatory risks in the market to inform the strategic priorities in our Corporate Plan. This framework helps to prioritise enforcement and other regulatory actions

targeting particular harms to investors, consumers and markets. Given the breadth of ASIC's responsibility, our task of prioritising and allocating resources is critical. [SoE para 9]

When we identify a potential breach of the law or harm, we will determine what is the most appropriate response.

Broadly, we consider the following factors in deciding which regulatory tool or tools we will use:

- its strategic significance (e.g. the seriousness of the misconduct or harm and taking into account our strategic priorities)
- the likelihood of success (of using one or more of the tools available to us)
- the issues specific to the case (e.g. availability of evidence)
- the consequences of pursuing misconduct (e.g. obtainable remedies for the purposes of punishing or deterring misconduct and protecting or compensating consumers)
- the availability of resources. [SoE paras 7–8]

On an ongoing basis, we supervise the entities we regulate through a combination of risk-based surveillance, reviews aimed at particular entities and thematic reviews aimed at issues across the relevant sector.

We are looking at ways to build on our substantial enforcement outcomes, which may include making greater use of external expertise and resources to accelerate the enforcement process.

We are also implementing a new and more intensive supervisory approach for Australia's largest financial institutions and superannuation entities. This will include regularly placing staff onsite in financial institutions to closely monitor governance and compliance actions.

We plan increased collaboration with fellow regulators, particularly the Australian Prudential Regulation Authority (APRA) for entities that are regulated by both agencies.

We will continue to encourage the adoption of regulatory technology solutions or 'regtech' in the financial system. Regtech will be an important tool in overcoming significant challenges facing Australia's financial system and has the potential to promote better consumer outcomes. [SoE paras 7–9]

## Data analytics

We are building our analytics capability to monitor financial services and markets to identify harms and respond to misconduct. This includes:

- increasing our range of data analytics and our number of data science professionals
- developing data science labs and production infrastructure to experiment with and deploy advanced analytics techniques
- conducting advanced analytics trials to detect misconduct. [SoE para 11]

## Regulatory decisions

We consider our statutory objectives, including facilitating and improving the performance of the financial system (fair and efficient markets) and promoting the confident and informed participation of investors and consumers, to be generally complementary. A proposed legislative amendment to our mandate in relation to competition will require us to consider the effects that the performance of our functions and the exercise of our powers will have on competition in the financial system, along with our existing objectives.

We will continue to pursue all of our objectives to the maximum extent possible and, where they conflict, we will be transparent about any trade-offs. [SoE paras 12–15]

## Financial capability

As the lead Government agency for financial capability, we help investors and consumers build their financial capability to make informed financial decisions. We are responsible for the National Financial Literacy Strategy and deliver programs to help Australians take control of their financial lives.

Our MoneySmart website provides financial guidance and tools to help all Australians make informed financial decisions. We promote and support financial capability in the education sector and provide resources for teaching financial literacy to students.

Moving forward, we will place a stronger focus on improving the confidence of women in managing their money as well as a focus on the most vulnerable, including undertaking outreach activity in remote and regional Australia. We will work collaboratively across public and private sectors to increase the reach of the financial capability program and to achieve greater impact over time. [SoE para 10]

## Responding to changing circumstances

We continue to enhance our techniques to review the sectors we regulate, including identifying our strategic priorities in each year's Corporate Plan. This plan identifies regulatory risks or threats, the behaviours that underpin them and the harms they cause. We also consider how these harms and risks may affect our ability to achieve our priorities and objectives. [SoE para 17]

We are enhancing our management information systems to improve strategic oversight and prioritisation. For example, our Regulatory Transformation initiatives to enhance our management information systems and regulatory analytics will improve how we work. The 'One ASIC' principle imbedded in this exercise is aimed at helping ASIC teams work better together to deliver effective regulatory outcomes.

Our workforce planning is strategic and forward-looking. Our people and development processes include integrated workforce capability planning to ensure we respond appropriately to changing circumstances. We will continue to report annually on initiatives to enhance our capabilities in our Corporate Plan and Annual Report. [SoE para 19]

We have implemented all the key recommendations of the ASIC Capability Review. Ongoing work on some of the recommendations is now built into ASIC's business as usual, or projects such as the Regulatory Transformation Program and internal governance arrangements. In line with the Capability Review's recommendations we also continue to adopt a strategic approach to our corporate planning and regulatory decision making.

Following the introduction of industry funding on 1 July 2017, we will consult annually on industry levies through our Cost Recovery Implementation Statement (CRIS). The CRIS ensures our costs are clear and transparent and provides information on how the cost of our regulatory activities will be recovered from each industry subsector. It includes our forecast of the work we will undertake for each subsector for each financial year and what it will cost to carry out that work. It also includes an explanation of the design of the levy for each subsector.

We will also consult regularly on industry funding in our external committees and panels, with a particular focus on seeking feedback during the CRIS consultation process.

These actions are key elements of our commitment to transparency and accountability under the industry funding model. The CRIS will provide information on the actual expenses we incurred in the previous year and explain any material variation compared to the estimates in the previous year's CRIS. [SoE paras 20–21]

## The Government's policy priorities for the financial system

We support the Government's commitment to increasing consumer trust and confidence in the financial system and combating misconduct. We seek to take action against misconduct and the resulting harms to consumers and market integrity. [SoE para 22]

### Product intervention power and design and distribution obligations

Once enacted, the product intervention power will allow ASIC to intervene on a temporary basis to address consumer detriment that may be caused by potentially harmful financial and credit products that fall within the scope of the power. The proposed power will ensure our regulatory action will be better targeted and tailored to dealing with consumer detriment in these products. We see this power as a critical addition to our suite of regulatory tools.

The proposed design and distribution obligations will strengthen issuer and distributor accountability to ensure that products are designed with consumer needs in mind and are marketed to appropriate sections of the population. [SoE para 22]

## ASIC Enforcement Review

ASIC welcomes the findings of the ASIC Enforcement Review Task Force, and the Government's positive response to its recommendations. We believe that the implementation of the recommendations will enhance our enforcement toolkit and improve our ability to act against misconduct to maintain trust and integrity in the financial system.

## The Australian Financial Complaints Authority

ASIC will supervise the operation of the Australian Financial Complaints Authority (AFCA), a body that provides access to effective external dispute resolution and is a central part of the financial services consumer protection framework. AFCA will report to ASIC about its activities, including systemic issues and serious contraventions by entities. We will actively monitor AFCA to promote the effective working of the scheme. [SoE para 22]

## Whistleblowers

ASIC supports the Government's work to reform Australia's corporate sector whistleblowing regime. These reforms encourage increased reporting of corporate wrongdoing and provide better protection for whistleblowers.

Our experience in assisting whistleblowers and dealing with the information they provide has led us to regularly review and enhance our own processes. It also provides us with practical insights while we support the Government's ongoing work to reform the whistleblowing regime.

Under the whistleblower reforms, ASIC is expected to receive any report from whistleblowers related to, among other things, any misconduct or improper state of affairs in relation to a company. [SoE para 23]

## Supporting innovation

We endeavour to encourage and support innovation in the financial sector – for example, through our relief or waiver powers we provide flexibility in the regulatory regime to allow for innovation. Meanwhile, through our Innovation Hub and regulatory sandbox we assist Australian fintech start-ups navigate our regulatory system.

The Innovation Hub and regulatory sandbox:

- assists eligible businesses with informal guidance on the licensing process and key regulatory issues
- provides waivers (e.g. through the sandbox), which allow eligible fintech and other businesses to test certain services for up to 12 months without an Australian financial services licence or Australian credit licence.

ASIC actively encourages entities to leverage regulatory data and regtech to better understand and manage their compliance risks. We are conducting trials with external regtech providers to accelerate our understanding and adoption of regtech to monitor and respond to misconduct. [SoE para 24]

## Open data

We support the Government's initiatives in relation to Open Banking, which we consider empowers consumers to make better decisions, promoting competition in financial services. [SoE para 25]

## The Government's regulatory reform program

### Regulatory reform agenda

We continue to look for opportunities to reduce the regulatory cost burden for business and improve regulatory efficiency.

Examples of how we provide compliance savings include: granting waivers from the law, facilitating international recognition of our laws, improving systems to enable faster and better interaction with us, and recommending law reform that will have a deregulatory benefit. [SoE para 26]

## Regulatory impact analysis

We have a strong history of incorporating best practice regulatory principles into our policy development process, and we have been consistently compliant with Office of Best Practice Regulation requirements. We will continue to comply with the Government's regulatory impact analysis requirements. [SoE para 27]

## Principles-based regulation

We support the Government's preference for principles-based regulation, which identifies desired outcomes, allowing regulated entities to determine the best way to achieve those outcomes. Highly prescriptive rules can result in technicalities, arbitrary distinctions and an overly technical or 'tick-a-box' approach to compliance. [SoE para 30]

## Our relationships

### Regulated population and industry stakeholders

In order to achieve our vision for a fair, strong and efficient financial system for all Australians, we will continue to actively and extensively engage with our diverse range of stakeholders. We engage with regulated entities, consumers (including small business) and academics in a variety of ways – for example, through advisory panels, roundtables on specific issues across sectors and regular meetings. These forms of engagement help us to:

- gain a deeper understanding of industry and consumer developments
- consult on policy matters
- consider, and help to address, systemic risks or harms in the sectors we regulate
- discover potentially harmful behaviours by particular entities.

Commission-level engagement with stakeholders, at all levels, further assists us understand market trends and emerging issues.

For engagement with industry to be effective, regulated entities need to be transparent, open and cooperative with us. [SoE paras 31–34]

### Government and responsible Ministers

In accordance with our statutory objectives, we will continue to provide advice to the Minister on law reform that might be required to overcome problems we encounter in administering or enforcing the legislation, or as a response to developments in the financial markets. [SoE para 35]

The ASIC Chair, ASIC Commissioners and senior ASIC officials will continue to regularly liaise with the Treasurer and other responsible Ministers. Moreover, we will continue to inform Treasury Portfolio Ministers of significant issues arising in our areas of responsibility, including about matters which the Government may be required to discuss in Parliament. [SoE paras 36–38]

### Treasury

We will continue to work closely with Treasury on all relevant matters. In addition, we keep the Secretary to the Treasury and other senior Treasury officials informed of significant interactions with, and information provided to, Ministers.

We are working with Treasury on protocols to enhance our work together in relation to legislative proposals. [SoE paras 40–41]

### Other Government bodies and regulators

We have effective relationships with our peer agencies in Australia and overseas. These relationships are supported by memoranda of understanding with agencies and membership of cooperative bodies made up of peer agencies (e.g. the Council of Financial Regulators and the International Organization of Securities Commissions). [SoE para 42]

We work closely with organisations such as APRA, the Australian Competition and Consumer Commission, the Australian Taxation Office, the Commonwealth Director of Public Prosecutions, the Australian Criminal Intelligence Commission and the Australian Federal Police, as well as with local police authorities. [SoE para 43]

Where there are areas of common interest we continue to communicate and co-operate both informally and formally at a variety of levels with our fellow regulators. We will continue to look for opportunities to enhance the ways we work together. These mechanisms for cooperation are in place to ensure, to the extent possible, that actions by each regulator do not result in an inconsistent or duplicative regulatory burden. Where regulated populations overlap, we will clearly explain our area of responsibility. The nature of our cooperation will continue to evolve as our regulatory tools and remit evolves. [SoE para 44]

### Coordination and information sharing

We recognise that, to do our job most effectively and efficiently, we need to coordinate and share information with other regulators. We have both formal and informal information-sharing arrangements in place with other regulators and law enforcement bodies, including our overseas counterparts. These relationships help us to ensure that financial system regulation is as streamlined and as integrated as possible. [SoE para 44]

## Communication, accountability and transparency

We always seek to be transparent about what we do and why we do it. We explain our role, regulatory priorities and the use of all our regulatory tools. We communicate the regulatory outcomes we achieve and our expectations of the regulated population. We do this by, for example, giving presentations and speeches, issuing media releases after taking enforcement action, and publishing regulatory guidance and feedback reports following policy consultations. These activities are conducted under our communications strategy, which we will continue to enhance. We are improving how we use communication channels, including digital channels such as social media. [SoE para 20]

We believe in accountability. We are subject to a range of transparency and accountability measures for financial, regulatory and performance activity. Annually we publish our:

- Corporate Plan, which communicates our strategic priorities, the harms we see and how we will address them, and includes our performance indicators, to meet the requirements of the Public Governance, Performance and Accountability Act 2013. We also publish summary business plans for each sector [SoE paras 47–49]
- Annual Report, which reports our outcomes against the strategic priorities outlined in our Corporate Plan, includes consideration of our capabilities, and provides an Annual Performance Statement with information about our activities and the outcomes achieved in the year [SoE paras 47– 49]
- self-assessment against the Regulator Performance Framework, with six outcomes-based indicators, including: reducing regulatory burden, processes for assessment (including self-assessment and external review processes), transparency, and other matters. [SoE para 29]

We regularly appear before the Parliamentary Joint Committee on Corporations and Financial Services, the Senate Standing Committees on Economics and the House of Representatives Standing Committee on Economics. We also report annually in our Portfolio Budget Statement and through the tabling of our Annual Report. We will continue to meet our obligations to the Parliament. Our decisions are also subject to judicial and administrative review, providing a further level of accountability. [SoE para 47]

We are also committed to keeping whistleblowers and members of the public who report potential misconduct to us informed about our consideration and response to their report. However, for confidentiality reasons, we are constrained in how much detail we can provide during the course of our review of reports and any subsequent investigation.

## Conclusion

We aim to be a high performing and responsive agency that delivers on our objectives, as set out in the ASIC Act, and contributes to Australia's economic growth. Our aim is to encourage and facilitate a fair, strong and efficient financial system for all Australians.

In keeping with the Government's vision, we intend to carry out our role consistent with being a leading global financial regulator. [SoE paras 50–51]