

**ASIC**

Australian Securities & Investments Commission

[About ASIC](#) > Statement of intent - ASIC

Statement of Intent – Australian Securities and Investments Commission

This Statement of Intent outlines the Australian Securities and Investments Commission's (ASIC's) response to the Government's Statement of Expectations about ASIC's role, responsibilities and relationship with government, issues of transparency and accountability and operational matters.

ASIC's objective and strategic priorities

ASIC's fundamental objective is to allow markets to allocate capital efficiently to fund the real economy and, in turn, economic growth. This contributes to improved standards of living for all Australians.

We achieve this objective through our strategic priorities, which are to ensure:

- confident and informed investors and financial consumers
- fair and efficient markets, and
- efficient registration and licensing.

These strategic priorities reflect ASIC's mandate under the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

ASIC's statutory role does not involve preventing the risk of all investor losses or ensuring full compensation for investors in all instances where losses arise.

Forward-looking challenges

The challenges for ASIC in the future are:

- balancing free markets and confident and informed participation by investors and financial consumers, with a particular focus on deregulation
- structural change in our financial system through the growth of market based financing, which is largely driven by superannuation
- financial innovation-driven complexity in products, markets and technology, and
- globalisation.

Achieving our strategic priorities

In achieving our strategic priorities and dealing with our challenges, a key aspect of what we do is identifying and dealing with those who break the law.

We do this to the best of our ability through our detect, understand and respond approach.

Detect

We detect misconduct or the risk of misconduct by gathering intelligence through:

- proactive and reactive surveillance
- breach reporting, and
- reports from whistleblowers and the public.

Risk-based surveillance

We adopt a risk-based approach to surveillance so that our actions are appropriate and proportionate. This approach assists us to allocate our resources efficiently to achieve the greatest market impact.

Understand

We understand by analysing the intelligence we receive.

Respond

Depending on our resources and powers, we respond to misconduct or the risk of misconduct by:

- educating investors
- providing guidance to gatekeepers
- disrupting harmful behaviour
- taking enforcement action, and
- providing policy advice to Government.

Education

We do our best to help investors and financial consumers make appropriate choices in their dealings with financial services providers, including through our MoneySmart website and, for example, through a current focus on financial services advertising.

Enforcement

Each year we take a wide range of actions to enforce the law and deal with misconduct that puts investors and fair and efficient markets at risk. By enforcing the law, we seek to deter future misconduct by:

- those individuals involved in the misconduct, and
- the broader business community through greater awareness of the consequences of breaching the law.

The enforcement outcomes we achieve can be:

- punitive (e.g. jail)

- protective (e.g. disqualifying someone from managing a corporation)
- preservative (e.g. court action to protect assets)
- compensatory (e.g. action to recover damages for those who have suffered loss)
- corrective (e.g. a court order to make corrective disclosure), or
- a negotiated outcome (e.g. an enforceable undertaking).

The Government's deregulation agenda

Reducing red tape and compliance costs

ASIC is aware of the burden unnecessary red tape can impose on business and the potential impact of this on productivity. To address this, we continue to pursue initiatives to reduce red tape for individuals and businesses. We have already made significant recent progress in reducing the burden of red tape and contributed to the Government's annual \$1 billion red tape reduction target. To facilitate business we:

- use our relief powers
- actively work with Treasury to propose law changes
- streamline our processes, and
- implement changes to make it easier for business to interact with us and meet their obligations.

For example we have reviewed our forms and identified opportunities to remove or streamline approximately 10% of the forms businesses and individuals submit to ASIC. This will reduce compliance costs for businesses and save businesses time.

Regulatory impact analysis

ASIC has a strong history of incorporating best practice regulation principles into our policy development process, and has been consistently compliant with Office of Best Practice Regulation requirements.

We will continue to comply with the Government's new Regulatory Impact Analysis requirements, noting the Government's focus on compliance costs. We will also continue to balance the impacts of regulation on business and the community with the regulatory benefit.

Outcomes-focused, risk-based regulation

Risk appetite and resource allocation

ASIC can operate at a range of resource levels, but resourcing will affect the outcomes we seek to achieve. For example, we will continue to focus our proactive risk-based surveillance on areas of high risk to investors and financial consumers, markets and market participants and on those entities and activities that have the greatest market impact. We will focus on financial advisers and managed investment schemes. We will also continue to undertake reactive surveillance where we see possible misconduct.

ASIC looks forward to the development of a whole-of-government risk framework. We welcome broad guidance on appropriate levels of regulatory risk.

Outcomes-focused, principles-based regulation

ASIC supports the Government's preference for outcomes-focused regulation. We welcome broad strategic direction from Government on regulatory outcomes. We will seek to achieve these outcomes in the most effective way, using the resources available to us.

ASIC also supports the Government's preference for principles-based regulation but notes that this can lead to demand from some industry bodies or participants for more certainty through guidance from the regulator on what is required to comply with the law.

Performance indicators

ASIC looks forward to the development of specific performance indicators to provide objective measures of success in achieving our statutory role. This would also provide greater transparency for end-users, industry and Government.

Relationship between ASIC and the Government

ASIC welcomes the Government's support for our independence. Equally, we respect the Government's overarching responsibility for setting financial and corporate regulatory policy. We will continue to take the Government's broad policy framework – including the deregulation agenda – into account as we work on achieving our strategic priorities.

Where ASIC has power to give class order relief or make rules, and the exercise of that power would have significant implications for the market or regulated population, we will consult with stakeholders and the Government.

Relationship with the responsible Minister

In accordance with our statutory objectives, ASIC 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 changes in the financial markets.

As contemplated by the Statement of Expectations we will also continue to inform the Minister of significant issues arising in our areas of responsibility.

Relationship with Treasury

ASIC recognises Treasury's role in supporting and advising the Treasurer and other Treasury portfolio ministers. We will continue to work closely with Treasury as we develop substantive operational policies and keep the Secretary to the Treasury informed of significant interactions with Ministers.

To support Treasury's role as the principal source of advice on policy development and the performance of the regulatory system, ASIC will copy information to the Secretary of the Treasury in parallel to that information being provided to Ministers. This is subject to ASIC's position as an independent agency and any legislative requirements that may limit our ability to provide such information to Treasury.

Regulatory cooperation

ASIC has sound and effective relationships with our peer agencies, both in Australia and overseas. These relationships are supported by memoranda of understanding with relevant agencies and membership of the Council of Financial Regulators and the International Organization of Securities Commissions (IOSCO).

ASIC also maintains operational and policy relationships with organisations such as the Australian Prudential Regulation Authority (APRA), the Australian Competition and Consumer Commission (ACCC), the Australian Taxation Office (ATO), the Australian Crime Commission

(ACC) and the Australian Federal Police (AFP), as well as with local police authorities.

ASIC has both formal and informal information-sharing arrangements in place with other regulators and law enforcement bodies, including our overseas counterparts.

These relationships help ASIC ensure that economic regulation is as streamlined and as integrated as possible.

Transparency and accountability

ASIC appreciates the importance of transparency and accountability in ensuring our effectiveness as a regulator.

Accountability

ASIC regularly appears before the Parliamentary Joint Committee on Corporations and Financial Services and the Senate Economics Committee. ASIC also reports annually in our portfolio budget statement and through the tabling of our annual report. We have demonstrated our commitment to fulfilling our obligations to the Parliament and will continue to do so.

ASIC decisions are also subject to judicial and administrative review, providing a further level of accountability.

Transparency and communications

ASIC is committed to open working relationships with the entities we regulate. Along with our regular one-to-one communications with many of our regulated entities, we have recently focused on improving our public transparency and communications.

For example, we:

- [have increased our commitment to publicising disruption activities or outcomes that do not involve formal proceedings](#)
- [have new processes for investors and financial consumers to report misconduct to us](#)
- [publish an overview every six months on individual relief applications made to ASIC to increase the quality of information available about the decisions we make, and](#)
- [are increasingly using media like Twitter, YouTube and Facebook to communicate to a broader audience.](#)

We are also committed to publishing a new corporate plan, commencing in 2014–15, which will outline the key risks confronting our stakeholders and our responses to these risks. This will provide more transparency for stakeholders about the regulatory outcomes we are seeking to achieve and increase ASIC accountability.

Transparency in enforcement

In our enforcement role, we are conscious of the need to be as transparent as possible in the decisions we make and the actions we take. Over the past three years, we have improved the transparency of our enforcement work.

We publish:

- [information sheets that describe how, when and why we take enforcement action and the circumstances in which we may make public comment on it](#)
- [reports on enforcement outcomes twice a year, and](#)

- in our annual report, how we use our compulsory information-gathering powers.

Our enforcement teams are currently reviewing guidelines for how they communicate with witnesses, victims and persons of interest at all stages of an investigation.

Stakeholder engagement

We promote accountability and transparency in our actions by working closely with stakeholders. For example, we:

- will continue to work on enhancing the sound and open relationships we have with our stakeholders, such as industry participants and investor advocates, to improve regulatory outcomes
- have a number of formal consultation mechanisms, including our:
 - External Advisory Panel
 - Market Supervision Advisory Panel
 - Consumer Advisory Panel
 - Directors Advisory Panel
- have a dedicated small business team to lead our small business engagement. ASIC looks forward to further guidance from the Government with respect to engagement with small business
- seek feedback and measure and report on our performance by way of our stakeholder surveys and other targeted initiatives, such as our small business survey, and
- will continue to measure our performance against a published Service Charter. We will keep our Service Charter under review to ensure it remains relevant and useful.

Organisational governance and financial management

ASIC's staff are highly skilled, professional and dedicated to their work. They have diverse backgrounds, including experience in law, accounting, and financial services. Many have strong industry or investor advocacy experience. They understand how markets work and the issues facing investors and financial consumers and industry. For these reasons, ASIC staff are sought after by the private sector and regulators overseas.

We are committed to ensuring that all our staff continue to uphold and promote the Australian Public Service (APS) values and comply with the APS Code of Conduct.

ASIC will continue to meet our financial management obligations and deliver outcomes as cost-effectively as possible.

Conclusion

ASIC intends to continue to be a high performing and responsive agency that delivers on our objectives as set out in the ASIC Act to contribute to Australia's economic growth.

ASIC Website: Printed 14/08/2014