

### ASIC 2024 Enforcement Priorities

On 21 November 2023, the Deputy Chair of the Australian Securities and Investments Commission, (ASIC), Sarah Court, announced the regulator's 2024 enforcement priorities and confirmed its enduring priorities.



#### **Enforcement Priorities 2024**



Distribution of financial products – particularly compliance with distribution obligations and the requirements to take reasonable steps to comply with Target Market Determinations (TMD).



Misleading conduct or greenwashing on sustainable finance – focusing on net zero statements and targets, use of terms like 'carbon neutral', 'clean' and 'green' with no reasonable basis and inaccurate labelling or vague terms in marketing sustainable funds.



Protecting financially vulnerable consumers
– continued attention on predatory lending practices and high-cost credit, and a new focus on the used car finance industry and lender compliance with financial hardship obligations.



**Misconduct in superannuation** – prioritising member service failures and misconduct resulting in the systemic erosion of super balances.



**Insurance sector** – focusing on consumer claims handling failures such as delays, poor communication and record keeping, and inappropriate use of policy exclusions.



Misconduct affecting small businesses – including unlawful credit activity, use of unfair contract terms, insurance claims handling misconduct by financial services and credit providers, and director misconduct relating to company failures (including directors' duties breaches, concealment of assets and failure to assist liquidators).



Non-compliance with reportable situations regime – including targeted surveillance of licensees to combat low reporting rates.



**Facilitation of corporate misconduct by "gatekeepers" –** including auditors,
registered liquidators, financial services
licensees and credit licensees via failure to
meet licensing standards.



**Financial markets** – focusing on ensuring technology and operational resilience of market operators and participants

# For more information, see ASIC enforcement priorities and the transcript of Ms Court's speech.

For more detailed analysis of ASIC's yearly compliance and enforcement and enduring priorities visit:

- → Practical Guidance Corporations,
   → Practical Guidance Mergers &
- Acquisitions,
- → Practical Guidance Banking & Finance,
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**Enduring Priorities 2024** 



Misconduct that damages market integrity – including insider trading, breaches of continuous disclosure obligations and manipulation of markets.



Misconduct that impacts First Nations people – as vulnerable consumers of financial products and services.



Misconduct with a high risk of causing significant consumer harm – especially that targeting financially vulnerable people.



Systemic compliance failures by large financial institutions – given these are likely to result in widespread consumer harm.



New and emerging conduct risks within the financial system.



Failures of governance and compliance with directors' duties – this is a new enduring priority added for 2024 underscoring ASIC's ongoing focus on corporate governance issues.



## Top five takeaways

- 1. Economic climate drives
  ASIC priorities: challenging economic
  conditions have prompted a sustained
  focus on misconduct affecting vulnerable
  consumers and small businesses.
- 2. Insurance and superannuation still under the microscope: both these industry sectors were targeted as priorities in 2023, with significant enforcement and surveillance undertaken.
- 3. Greenwashing remains firmly on the agenda: this is unsurprising given the planned rollout of mandatory sustainability reporting standards and increasing attention to ESG issues among Australian corporates. It also accords with continued focus on greenwashing by the ACCC.
- 4. Governance and directors' duties a new enduring priority: in combination with the new 2024 focus on the conduct of "gatekeepers", this is a strong signal of ASIC's increased scrutiny of corporate governance practices and pursuit of accountability for failures.
- it is notable that ASIC has chosen to retain so many of the 2023 enforcement priorities into next year, some with a shift in specific focus. It is a thorough and systemic approach from an active regulator. Others, including crypto assets, investment scams, social media-based misinformation and manipulation of energy and commodities markets have been deprioritised but continue to feature in ASIC's 2023-27 Corporate Plan, released earlier this year.

### Practice tip!

ASIC takes a pragmatic approach to enforcement and will always act to address conduct that it considers to pose a serious risk of harm or financial loss, whether or not designated as a specific priority. It is essential that businesses maintain sound compliance training and practices and remain aware both of particular areas of enforcement focus targeting their own industry sectors, and the regulator's broader enduring priorities.



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