



ASIC
Australian Securities &
Investments Commission

ASIC's priorities for the supervision of market intermediaries in 2021–22

ASIC's strategic priorities are detailed in ASIC's [Corporate Plan 2021–22](#).

Our four external priorities target the most significant threats and harms in our regulatory environment:

- › Promoting economic recovery
- › Reducing risk of harm to consumers
- › Supporting enhanced cyber resilience and cyber security among ASIC's regulated population
- › Driving industry readiness and compliance with standards set by law reform initiatives.

We recognise that market intermediaries are currently facing many challenges, including from the impacts of the COVID-19 pandemic and several important legislative reforms taking effect this financial year. We are adapting our work program to reduce the number of reviews of market intermediaries and providing regulatory relief where appropriate. While we are focused on supporting business and the economic recovery, we will take enforcement action where there is evidence of misconduct and it is in the public interest to do so.

The projects outlined below represent the most significant pieces of work relating to ASIC's supervision of market intermediaries and is not an exhaustive list.

Our work in 2021-22 is focussed on four main areas:

1. Reducing risk of **harm to consumers**
2. Supporting enhanced **cyber and operational resilience**
3. Maintaining high **industry standards**
4. Enhancing our **market surveillance and data analytics**

Reducing the risk of harm to consumers



Historically low interest rates and the ongoing search for yield have inflated retail investor risk appetite and stimulated scam activity. While we seek to quickly identifying and shut down scams, we encourage market intermediaries to raise awareness among their clients of the heightened risk environment.

Assessing the evolution of retail products and distribution strategies

- We are working to better understand the extent to which trading apps are gamifying trading or encouraging excessive trading by retail investors.
- We are consulting on proposals to enhance the application of market integrity rules for payment for order flow practices through [CP 347](#).
- We are reviewing market practices in relation to copy trading, including its outcomes for investors and the application of financial services laws.
- We are reviewing the adequacy of monitoring and supervision arrangements licensees have for their corporate authorised representatives.
- We will seek to improve disclosure about the risk of pooling of client cash and security holdings using omnibus Holder Identification Numbers, and the structure and risks associated with fractional share offerings.

Embedding strategies to monitor social media advice and influence on retail investment decisions

- We are engaging with social media platforms, forum moderators and financial influencers or ‘finfluencers’ to consider market practices, the application of financial services laws and drive behavioural change.
- We are embedding tools and undertaking reviews of social media to detect unlicensed advice to retail investors.
- We are developing educational content for retail investors, including through social media to connect with investors and disseminate real-time warnings.
- We are enhancing our social media monitoring and network analytics capability to identify more connections, as well as coordinated activity that may harm market integrity or contribute to market manipulation.

Product Intervention Orders

- In 2021, Product Intervention Orders came into effect for Contracts for difference (CFDs) and binary options.
 - From 29 March 2021, ASIC’s product intervention order relating to CFDs (CFD PIO) strengthened protections for retail clients by restricting CFD leverage to reduce the size and speed of losses, standardising margin close-out arrangements, protecting against negative account balances and prohibiting the offer of certain inducements to retail clients.
 - ASIC made a product intervention order banning the issue and distribution of binary options to retail clients, with effect from 3 May 2021.
- We are closely monitoring these markets to ensure compliance with these orders and collecting data to consider whether these product intervention orders should be extended or made permanent.



Supporting enhanced cyber and operational resilience

Cyber resilience

- We are supporting enhanced cyber resilience and cyber security among ASIC’s regulated population, in line with the whole-of-government commitment to mitigating cyber security risks, including to raise awareness of cyber issues.
- We are probing and assessing the cyber resilience of our regulated population. We take a risk-based approach to target entities for assessment utilising our cyber risk rating framework.

Operational resilience

- We are assessing and monitoring the operational resilience of market intermediaries, with a focus on:
 - the changing operating environment through the COVID-19 pandemic and increase in remote and hybrid working
 - preparedness to respond to any future market infrastructure outages or incidents
 - industry’s readiness for LIBOR transition and CHES replacement

- o ongoing monitoring of the technology and operational risk governance practices of market intermediaries and undertaking on-site reviews as appropriate.
- We are also looking to finalise and implement new market integrity rules for market participants and operators focussed on systems and controls.



Maintaining high industry standards

Industry readiness and compliance with standards set by law reform taking effect in October 2021

- We are engaging with market intermediaries on their preparedness and implementation of reforms taking effect in October 2021. The reforms include:
 - o design and distribution obligations
 - o breach reporting to ASIC
 - o restrictions on the unsolicited selling of financial products (hawking)
 - o how disputes are managed internally in firms
 - o reference checking and information sharing requirements for financial advisers and brokers.
- ASIC will take a reasonable approach in the early stages of these reforms provided industry participants are using their best efforts to comply (see [21-213MR](#)).
- We will undertake risk-based reviews of compliance with the new obligations around the second half of the financial year, including to test whether Target Market Determinations and frameworks for review of product design and distribution are satisfactory.

Setting and testing standards in other areas

- We are preparing for the implementation of the Financial Accountability Regime in 2022.
- We are monitoring the financial strength of market intermediaries, including through safeguarding retail client monies and implementation of new capital adequacy requirements.
- We will continue to review the appropriateness of advice and control frameworks for the provision of advice by market intermediaries and may provide guidance to raise standards.
- We are seeking to improve and align Australia's reporting of OTC derivative transactions with international standards by consulting on harmonised trade reporting rules.
- We are also undertaking supervisory activities that address key themes such as technology and systems, operational resilience and internal audit, including use of targeted onsite reviews when appropriate.

Equity and Debt Capital Market raisings

- We are continuing to test the management of conflicts of interest by market intermediaries providing research and corporate work, as well as any potential conflicts in making allocations in equity and debt raisings. We do this through ongoing monitoring of transaction activity, media commentary and complaints relating to capital raising transactions.



Enhancing our market surveillance and data analytics

Fixed Interest, Currency and Commodity (FICC) market surveillance and data analytics

- We are enhancing our FICC market surveillance capability, by ingesting and interrogating a broader range of data, to keep abreast of changing market dynamics and indicators of poor conduct.
- We have a focus on emerging harms from the search for yield in the low yield environment, as well as insider trading and possible manipulation of lower/sub investment grade bonds.

- We are also seeking to identify poor behaviour in short term money markets, domestic/cross currency swap and futures markets.

Securities market: real-time and post-trade surveillance

- ASIC undertakes real-time surveillance of trading on Australia's domestic licensed markets. This includes identifying and taking action against insider trading, market manipulation, disorderly trading and misinformed securities markets. This financial year, we are focussed on:
 - strategies that artificially move prices and induce other investors to trade at artificial levels. This includes momentum ignition, ramping and pump and dump. We are especially focused on the role of social media influence
 - activist short selling and short squeezes, with a key focus on maintaining market integrity, an informed market and addressing information asymmetry
 - cross-market and product manipulation and insider trading (e.g. trading across shares, CFDs and swaps)
 - suspicious activity reporting and improving the number and quality of these important sources of intelligence.

Conclusion

We encourage you to use this letter as a reference tool for your compliance, supervisory and risk management programs, and to prepare for your interactions with us. We also recommend you [subscribe](#) to our free monthly Market Integrity Update, to stay informed of regulatory developments and issues affecting market intermediaries.

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