



# **QoNs for ASIC - Senate Inquiry Hearing:**

## **10 April 2014**

### **QoN 1: From Senator Bishop P72**

**P72**

**CHAIR:** Maybe you are going to have to prosecute a couple instead of having talks and find out what the cause is. **Mr Medcraft, can ASIC provide the committee with a copy of the letter it sent to Commonwealth Financial Planning in February 2008 outlining its findings and concerns from its surveillance project? Similarly, can you provide the committee with a copy of the 2008 report from its surveillance project undertaken in relation to CFP?**

**Mr Medcraft:** Yes.

**CHAIR:** In his first submission, Mr Morris suggested that when he joined CFP back in March 2008 he was told that ASIC had given CFP a clean bill of health. This, he speculated to us, referred to ASIC's surveillance project of CFP. Did ASIC give CFP any cause to believe that it had been given a clean bill of health following the surveillance project?

**Mr Kirk:** No, and I think once you see that letter you will be assured that that was not the case. It is probably always the case in these things that large firms—and there are a lot of Chinese whispers, rumours and people saying things that they do not really—

**CHAIR:** Yes, there are. You have answered the question. The exhibits in due course will answer the question. That is fine.

**Answer:**

**Please see attachment: CFP 2007 surveillance findings and concerns.**

### **QoN 2: From Senator Whish-Wilson P72 & 73- Answer: WD**

**P72**

**Senator WHISH-WILSON:** **In terms of talking about past conduct, I just wanted to get some general information about complaints and investigations and even issuances of breach reports over the last 10 years, to get an idea of how peculiar this example is with Commonwealth Financial Planning. Pre and post the GFC, could you just give us a rough breakdown of how usual or unusual this type of situation is for ASIC?**

**Mr Day:** **I think we would have to take that on notice.**

**Senator WHISH-WILSON:** I am trying to gauge the experience of the organisation in dealing with a situation like this. Have you had anything as substantive as this situation we are dealing with with Commonwealth Financial Planning previously?

**Mr Medcraft:** It may be useful to comment on what we do on breach reports, and significant ones, if somebody would like to comment.

**Mr Day:** I think that is a difficult question to answer, certainly if you are asking to go to, say, 10 years worth of experience.

**Senator WHISH-WILSON:** Sure. I am, yes.

**Mr Day:** I can take that part on notice, but I can assist you with what our general process is, if that assists.



**Senator WHISH-WILSON:** Obviously the financial crisis impacted every financial planning organisation right around the country and internationally. I would like to know, post the GFC—let's say after 2008—what levels of complaints or breach notices you received from other financial planning organisations.

**Mr Kirk:** We can do that—and I think we have to take it on notice—but in broad terms I think the financial planning industry had problems with the quality of advice, and that goes back a long way. We did a number of shadow shopping exercises that revealed that possibly 20 per cent of advice was of very poor quality. On a market that was continually rising, that was much less likely to be exposed than it was when the GFC came along.

**Senator WHISH-WILSON:** When did you do that? Was that pre-GFC?

**Mr Kirk:** There was shadow shopping in about 1998, 2003, 2006 and one subsequently.

**Mr Kell:** And post GFC. We would be very happy to provide the committee with our shadow shopping reports. We did have a series of other major enforceable undertakings against large firms that we have mentioned

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in the material that we provided, where there were again significant issues around the quality of advice provided within some of the larger players in the industry.

**Senator WHISH-WILSON:** You mentioned larger players. I was looking for any differentiation you could provide within the industry between those who provide a fee-for-service model and the vertically integrated sales based models we are seeing—as, for example, Commonwealth Financial Planning used to be.

**Mr Kell:** At that stage, there were no large entities that had fee-for-service models.

**Senator WHISH-WILSON:** Correct, but there were smaller entities. They were a number of smaller financial planners that had been doing fee-for-service for some years. I would be interested in terms of the quality and what impact that had on the number of complaints you have had.

**Mr Kirk:** **There are certainly conclusions in at least one of our shadow shopping reports, which we will provide you with, about the greater likelihood of getting poor advice if you are dealing with someone who had some sort of conflict of interest from the way they were remunerated.**

**Answer:**

### Breach reporting

The *Corporations Act 2001* (Corporations Act) requires Australian Financial Services licensees (AFS licensees) to inform ASIC in writing within 10 business days about any significant breach (or likely breach) of their obligations.

These breach reports are an important source of intelligence information for ASIC to understand current conduct in the market and to address misconduct.

AFS licensees must have clear, well understood, and documented processes for identifying and reporting breaches. Responsible entities of managed investment schemes are also subject to specific breach reporting requirements.

AFS licensees are not required to report all breaches to ASIC. AFS licensees only have to report those that are 'significant' having regard to:

- the number or frequency of similar previous breaches
- the impact of the breach on the AFS licensee's ability to provide financial services



- the extent to which the breach indicates that the AFS licensee's arrangements to ensure compliance with those obligations is inadequate, and
- actual or potential financial loss to clients or the AFS licensee.

It is a decision for the AFS licensee whether a breach or likely breach is significant and thus, reportable. If the AFS licensee is not sure, ASIC encourages AFS licensees to report the breach.

As part of their breach report, AFS licensees advise:

- how they identified the breach;
- how long it lasted;
- what steps they have taken to rectify the breach; and
- what steps they have taken or will take to ensure compliance in the future.

As part of our assessment of the breach report we will consider the steps the AFS licensee has taken. We may decide to undertake further surveillance or investigation action, or we may decide that no action on our part is required, for example because the licensee has rectified the breach and ASIC is satisfied with the action taken. The proportions of these matters are recorded in the table below.

ASIC has introduced a number of enhancements to how we receive and assess breach reports, and to inform AFS licensees about their obligations.

We recently amended the relevant ASIC form (Form FS80) and Regulatory Guides to inform AFS licensees to email their breach reports to us, via a dedicated email address.

We launched a dedicated page on the ASIC website to provide basic guidance for AFS licensees on how and when to lodge breach reports, as well as providing links to relevant forms and Regulatory Guides.

We have a program to contact AFS licensees who are still lodging hard copy breach reports about our new preference for email lodgement.

These measures will:

- improve ASIC's efficiency in recording and assessing breach reports; and
- provide additional certainty to AFS licensees that we have received their information in a timely way.

ASIC's systems do not allow for ASIC to collate data on breach reports going back 10 years. The table below contains the results from the last 5 years.

	2009-10	2010-11	2011-12	2012-13	2013-14 March
<b>Total Breach Reports – ASIC AFSL holders</b>	<b>1179</b>	<b>1007</b>	<b>1017</b>	<b>900</b>	<b>743</b>
<b>Referred for action by ASIC</b>	<b>34%</b>	<b>40%</b>	<b>51%</b>	<b>55%</b>	<b>53%</b>
Referred for compliance, investigation or surveillance	19%	26%	35%	41%	39%
Assist existing investigation or surveillance	15%	14%	17%	14%	14%



Analysed and assessed for no further action by ASIC	66%	60%	49%	45%	47%
No breach	1%				*
Warning letter issued		*		1%	
Insufficient evidence	3%	1%		1%	
No action – other reason <sup>#</sup>	62%	59%	49%	43%	47%
Total	100%	100%	100%	100%	100%

\* less than ½ per cent

<sup>#</sup> in the majority of these cases the Licensee has rectified the breach and ASIC is satisfied with the steps taken to prevent a recurrence of the breach

### Shadow shopping

ASIC's has had three Shadow Shopping Reports: 2003, 2006 and 2012 and these are provided as attachments.

### QoN 4: From Senator Whish-Wilson P73

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**Mr Day:** Within ASIC we provide, across the organisation, a trend report on the general reports of alleged misconduct that we get from the public as well as the breach reports we get from licensees. We also look at general phone call rates and inquiries that we get through our call centre. Those trends are broken down by portfolio or industry sectors and, within that, in relation to keywords. Those reports are provided across the commission. We have been able to do that for probably the last five years because we have had more enhanced keyword labelling of those matters for the last five years. We identify that and use that to assist us to see if there are changes in the market.

**Mr Medcraft:** Is that something along the lines of interest to you?

**Senator WHISH-WILSON:** Yes, it would be.

**Answer:**

Please see breach reports in attachments.

### QoN 5: From Senator Bishop P78 & 89

P78

**CHAIR:** Yes, but, if the problem derives from the fact that the officers of Commonwealth Financial Planning at first instance, with any or all of the 7,000 clients, did not do their job properly, did not maintain records, falsified records, falsified signatures, so that nothing could be reconstructed properly, in terms of outcomes, bad luck for the Commonwealth Bank. It should have been instructed to do the job properly, as was done by this law firm in Melbourne, Maurice Blackburn. If that cost \$35,000 or \$40,000 per client, well, that is the penalty for not operating properly in the marketplace at first instance.

**Mr Kirk:** But doing that for 7,000 clients, at \$35,000 or \$40,000, would be a few hundred million dollars.

**CHAIR:** It would. That is not your concern. It is the concern of the shareholders of Commonwealth Bank, the concern of the directors of Commonwealth Bank. Let the directors go to the meeting and explain that the dividend has been reduced by 10c this year because of the incompetence that was allowed by the senior managers. It is not your concern. That is the point I am trying to make. Who cares?



**Mr Kell:** One factor we have not mentioned here is that both phases of the compensation program also had an independent reviewer who randomly selected files to ensure that appropriate procedures were in place, looked at calculation methodologies for compensation offers. So, for the first phase it was Ernst and Young; for the second phase it was PricewaterhouseCoopers. They undertook a substantial review. They did not review every single one; they were not employed to do that. In a range of cases, ASIC also looked at processes, especially if there were matters that seemed to involve a high level of disputation towards the end of the process. So there were a range of, if you like, review processes and oversight built into the process.

**Mr Medcraft:** **Sorry, Senator. I was just wondering, to answer the senator's question, why at the time did they reject writing to them asking them for missing documents—I guess the heart of the question.**

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**Mr Kirk:** **To be honest, I would have to go and talk to the staff involved.** When there are missing documents, to write to someone, send them a copy of this file and ask them, 'Please tell us what is missing from this,' may not elicit a very useful response, especially if you are doing that to 7,000 people in terms of delays to the whole process whilst they try and ponder, looking at this file, what documents maybe should be there that are not—

**CHAIR:** It may not.

**Mr Kirk:** I do not think it would be a useful step.

**CHAIR:** You might be right—it may not. But my response again to that is: so what? At least you try.

**Mr Medcraft:** Senator, perhaps we should go back. I would be interested to get the answer to your question—at the time, why that did not occur.

**CHAIR:** I will take it one step further. We have to sit through this for days and days on end. Okay, we are public officials—that is our duty. But so what if the Commonwealth Bank has to spend an extra \$500 million?

**Mr Medcraft:** **Senator, I actually concede what you are saying and I think we should find out why it did not happen.**

**CHAIR:** **Okay, that is fair enough.**

**Answer:**

The compensation process formed part of the enforceable undertaking that CFPL entered into with ASIC as an alternative to enforcement action.

As originally designed under Project Hartnett, the compensation process was robust and had specific measures to ensure that information was obtained from clients who had files with missing or inadequate documents.

Recently, CBA informed ASIC that two measures, from the original compensation process, were not applied consistently across all affected customers<sup>1</sup>. These measures were:

- upfront communication with affected customers of advisers where there were concerns about the quality of advice, advising them of those concerns, informing them that there would be a review of the advice previously provided to them and providing an opportunity to raise issues; and
- the offer of \$5,000 to customers to obtain independent advice in order to help them assess whether the review of their advice and any compensation offer was adequate.

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<sup>1</sup> Refer to ASIC's second supplementary submission on CFPL.



Both measures were implemented in relation to customers of two former advisers within CFPL – Don Nguyen and Anthony Awkar. However, they were not applied to customers of other former CFPL2 and Financial Wisdom advisers, about whom there had been concerns.

ASIC has taken immediate action to remedy the inconsistent treatment. Customers who did not get the benefit of those measures will now get them which will allow them to access independent advice and seek compensation or test their compensation amount. This will be regardless of whether they have entered into a settlement. They will also have access to the Financial Ombudsman Service if they are not satisfied with the outcome.

These corrective measures will be subject to oversight by an ASIC-appointed independent expert. The expert will also check to confirm that there were no other changes to the original methodology. The independent expert will report to ASIC and the results made public.

To be clear, ASIC has not identified problems with the actual file reviews done in the compensation process, nor with the amounts of compensation offered to customers. The problem was not with the original compensation arrangements, but in the implementation.

It is important to remember that although enforceable undertakings can and often do secure outcomes beyond what can be achieved through enforcement proceedings - particularly in the case of compensation schemes - they are subject to what can be negotiated between the parties. Therefore, it is unlikely that a party will offer to take action or incur costs under an enforceable undertaking if those actions or costs go far beyond what a court<sup>3</sup> would order<sup>4</sup>.

As part of those negotiations, CFPL did not offer to take the additional step of writing to each of the 7000 clients<sup>5</sup>. It not having been offered, ASIC could not impose a requirement that that be done. Factors that would mitigate against such a requirement include the robustness of original compensation process and the likely futility<sup>6</sup> of, and delay involved in<sup>7</sup>, taking such a step.

The compensation process would have been significantly delayed<sup>8</sup> had CFPL initially written to more than 7000 clients to:

- Provide their client file;
- Ask them to identify if any documents were missing from the file; and
- Ask them whether they held further relevant documents.

This delay would have been difficult to justify, given that:

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<sup>2</sup> Including those CFPL advisers included in the Past Business Review (the compensation scheme under the enforceable undertaking).

<sup>3</sup> Or ASIC delegate or tribunal (such as the Companies Auditors and Liquidators Disciplinary Board) or panel (such as the Markets Disciplinary Panel).

<sup>4</sup> if ASIC brought successful proceedings against that party.

<sup>5</sup> To provide their client file and to ask them to (i) identify if documents were missing from their file and (ii) ask them whether they held further documents.

<sup>6</sup> Few clients could be expected to be aware of all the documents that should be in their file.

<sup>7</sup> As clients took time to respond or, more likely, did not respond at all given the difficulty of the questions being posed.

<sup>8</sup> The delay may have stemmed from, among other things: (1) Ensuring delivery of the letters to more than 7000 clients (2) Clients taking some time to respond to the letters (3) Chasing late responses from clients (4) Reviewing the information received.





The compensation process already had mechanisms for:

- identifying clients from whom further information was needed; and
- seeking further information from those clients.

A number of clients were experiencing hardship; writing to more than 7000 clients as an initial step in the compensation process would have delayed the payment of compensation to these clients. It should be noted that the existing compensation process had a mechanism to ensure that clients experiencing hardship were dealt with quickly and their compensation fast-tracked, where appropriate. Such a process of writing to all clients would likely generate little result given the difficulties faced by clients in knowing what documents should be in their file, and the confusion and uncertainty likely to be generated by the questions being asked of them.

#### **QoN 6: From Senator Bishop P82**

**CHAIR:** *Is Ms Swan correct in claiming that ASIC rejected her offer to provide evidence regarding Mr Nguyen during the 2012 Administrative Appeals Tribunal process?*

**Mr Kirk:** Her evidence was not used before the ASIC delegate in terms of the banning. We had sufficient material, but it was put before the Administrative Appeals Tribunal, as I understand it.

**CHAIR:** *Can you check that? Ms Swan told us—*

**Mr Kirk:** *We are happy to take that on notice. I think it is something we actually addressed in one of the previous questions on notice, but I will dig that out.*

**Answer:**

ASIC has no record of Mrs Swan offering information regarding forgeries allegedly perpetrated by Don Nguyen against her parents (Mr and Mrs Blanch) prior to the hearing of Mr Nguyen's appeal to the AAT in March 2012. Indeed, ASIC has no record of communicating directly with Mrs Swan or the Blanches at any time.

ASIC notes that:

- In late 2011, Financial Resolutions Australia (FRA) – as representatives of the Blanches – described the Blanches case generally to ASIC. However, given that the Blanches wished to preserve their anonymity at that time, FRA declined to attach the Blanches name to the case. For this reason, ASIC was unable to pursue this line of inquiry prior to the March 2012 appeal by Mr Nguyen to the AAT.
- It was not until November 2012 that the Blanches waived their claim to anonymity and FRA attached the Blanches name to the case previously described generally to ASIC.
- Mr and Mrs Blanch's complaint was used in summary form in the evidence put before the AAT in Mr Nguyen's appeal.
- Jan Braund did offer to provide ASIC with evidence in relation to Mr Nguyen and was, in fact, interviewed by ASIC officers. However, for reasons explained to the Committee in camera on 10 April 2014, ASIC decided not to use her evidence in the banning brief submitted to the ASIC delegate.
- Mrs Braund's complaint was used in summary form in the evidence put before the AAT in Mr Nguyen's appeal.



## **QoN 8: From Senator Bishop P84 & 85**

### **P84**

**CHAIR:** How many of these unresolved matters are there?

**Mr Kirk:** I can give you information on that. Both across the Nguyen clients and across the broader compensation program there are 57 former clients with potentially remaining issues and for 45 of them the problem is that they are uncontactable.

**Mr Kell:** We should add on that note that it was one of the tasks of the independent reviewer to make sure that CFP undertook a rigorous process to try and chase down clients. That was one of the issues reviewed.

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**Mr Medcraft:** To be clear, there are only 12.

**Mr Kirk:** There are 12 that are contactable and where there is an ongoing—

**Mr Kell:** Twelve out of 7,000.

**Mr Kirk:** Yes, that is right. There have been 12 out of 7,000 reviewed and something over 1,100 have been made compensation offers.

**CHAIR:** Let me get this clear: there are still 70 live, unresolved claims of the 70,000, which is one per cent, and of those 70—

**Mr Kirk:** The figure is 57.

**CHAIR:** 57 are not contactable—

**Mr Kirk:** There are 57 in total that are unresolved, and of those 45 are uncontactable. There are 12 with communication and live issues.

**CHAIR:** **Have you been in contact with all of those 12?**

**Mr Kirk:** **Can I take that on notice just to make sure that I do not mislead you. It is partly because we have been in contact with the representatives who represent groups of claimants.**

**CHAIR:** **When I say 'them' I mean all their representatives.**

**Mr Kirk:** **But I am not sure that the representatives cover every single one of them, so I would want to check that.**

**Answer:**

**ASIC's engagement with CFPL and clients (or their representatives) with unresolved claims falls into two categories:**

**First, seeking regular updates from CFPL regarding:**

- the number of clients with unresolved claims;
- the nature of the unresolved claims (e.g. whether the client is uncontactable, whether the client has taken their claim to FOS); and
- the status of communication between the client (or their representative) and CFPL.

**Second, engaging with clients with unresolved issues (or their representatives) when they contact ASIC (noting that ASIC does not unilaterally initiate contact with these clients).**

### ***ASIC Engagement with CFPL***

**According to the last update from CFPL (April 2014), 57 clients of CFPL have unresolved claims. Of those clients, 45 are unable to be contacted by CFPL and 12 have active unresolved claims. A detailed breakdown follows:**





- 45 are unable to be contacted by CFPL. In attempting to contact these clients, CFPL undertook the following steps: sourcing information from the client files, CBA computer systems and the whitepages; and conducting online searches using google and social media sites. Where a postal or email address was available, notice was sent informing the client of CFPL's attempts to contact them. A notation in CBA's computer systems will ensure that when these clients come into contact with CBA, their remediation will be considered. It should be noted that the independent expert reviewed the communications process for the 'unable to contact clients' and sample tested communications with these clients. No material exceptions were found in this review.
- In September 2013, one client had an amount of \$164,171 (representing CFPL's latest settlement offer) credited to their account by CFPL. CFPL's last contact with this customer was no later than November 2013.
- In September 2013, one client had an amount of \$112,590 (representing CFPL's latest settlement offer) credited to their account by CFPL. CFPL's last contact with this customer was no later than November 2013.
- One client (a company), who was assessed during Project Hartnett as not requiring compensation because a gain was made, alleged that it was owed compensation. CFPL's last contact with this client was September 2013.
- Two clients, who previously signed settlement agreements with CFPL in 2010, are seeking to reopen settlement negotiations. CFPL advised these clients (in no later than November 2013) that it will not object to FOS determining the issue of compensation afresh. These clients have not yet lodged claims with FOS.
- One client who previously signed a settlement deed with CFPL in 2012 now disagrees with CFPL about a matter which, according to the client, was not considered in the original settlement. CFPL's last contact with this customer was in November 2013, when CFPL suggested that he lodge a claim with FOS if he remained dissatisfied.
- Remediation of three clients is currently under consideration by CFPL.
- One client, having settled with CFPL, has recently raised a concern with CFPL about their compensation.
- Two clients are currently pursuing their claims through FOS.

***ASIC Engagement with clients (or their representatives)***

ASIC's last contact with clients with active unresolved issue (or their representatives) was in November 2013. Prior to this time, ASIC was in contact with:

- A representative of a number of clients with active unresolved issues;
- Two unrepresented clients with active unresolved issues.

Accordingly, ASIC was in communication with some, but not all, of the 12 clients with active unresolved issues until November 2013.

**QoN 9: From Senator Whish-Wilson P92**

**P92**

**Senator WHISH-WILSON:** I understand that Mr Wheeldon made representations internally about concerns over conflicts of interest in relation to this matter, which of course are on



record and you have addressed that. Are you aware that any of those are on file currently with ASIC? Could you produce them for the committee?

**Mr Kell:** I am not quite sure what you are referring—

**Mr Tanzer:** Senator, if what you are referring to is, 'Do we have on file an agreement with the relevant officer, the secondee, and does it include an acknowledgement that he will not do any work that relates to his employ,' yes, we have that.

**Senator WHISH-WILSON:** **In relation to the issue that Mr Wheeldon raised while he was working at ASIC about potential conflicts of interest, do you have records of the concerns that he raised?**

**Mr Medcraft:** **We will take it on notice.**

**Senator WHISH-WILSON:** Could you take that on notice, because—

**Mr Kell:** Could I just make a point about the conflict of interest? It is difficult to have a conflict of interest when the decision applies universally to every entity in the industry. The conflict was about applying some sort of special deal or special favour to a particular part of the industry vis-a-vis the rest of the industry. That was not the case with this decision. It applied to every single fund in the industry equally.

**Mr Kell:** Could I just make a point about the conflict of interest? It is difficult to have a conflict of interest when the decision applies universally to every entity in the industry. The conflict was about applying some sort of special deal or special favour to a particular part of the industry vis-a-vis the rest of the industry. That was not the case with this decision. It applied to every single fund in the industry equally.

**Answer:**

**We do have records of the concerns that Mr Wheeldon raised while he was working at ASIC. Mr Wheeldon raised concerns within ASIC about the potential for a conflict of interest in Mr Jones' involvement in the project on superannuation calculators. The substance of these concerns were that:**

- **Mr Jones had been involved in the preparation of IFSA's request for relief;**
- **his employer, MLC, would benefit from any grant of relief; and**
- **he should not have participated in ASIC's work on the project.**

**Mr Wheeldon also alleged that there had been a breaches of s125 of the *Australian Securities and Investments Commission Act 2001* (which deals with conflicts of interests of ASIC staff) and ASIC's policies on conflicts of interests.**

**As detailed in our answer to QoN 17, these concerns were referred to the then General Counsel of ASIC, who reviewed them: please see our response to supplementary question on notice 17.**

**As requested, we have also provided the Committee with a copy of the explanatory statement that accompanied the class order we issued in June 2005, which is also publicly available on the Australian Government ComLaw website. This explanatory statement was finalised by the relevant team following approval of the granting of class order relief by ASIC's Regulatory Policy Group.**

**The class order it accompanied had effect until December 2005, when it was superseded by a second class order extending the relief for generic superannuation calculators to all generic financial calculators (i.e. the calculators relief still in effect today). We have provided further details on the process by which we developed the relief in our response to supplementary question on notice 15, and in our separate statement on ASIC's relief for generic financial calculators.**



#### **QoN 10: From Senator Williams P95-96**

**Senator WILLIAMS:** The question is: in relation to the enforced undertaking it put on Macquarie Private Wealth, in ASIC's view what was the largest failing of Macquarie Private Wealth?

**Ms Bird:** It had systemic failings of compliance and it had a poor compliance culture.

**Senator WILLIAMS:** Did these failings result in widespread incidents of clients receiving inappropriate advice?

**Ms Bird:** Yes. Well, actually, it is unlikely that many clients are worse off financially because of what happened. This is more a case of a lot of poor record keeping. But the process of determining whether the advice was inappropriate and whether people lost money is underway.

**Senator WILLIAMS:** **How many clients were impacted by this bad advice et cetera?**

**Ms Bird:** **I would have to take that on notice. I suspect that is a matter that is still being determined.**

**Senator WILLIAMS:** So do you have that number, or would Macquarie Bank be volunteering the number of how many clients would be affected?

**Mr Kell:** It is part of a process.

**Ms Bird:** It would be part of a process in finding out how far they have to go back. They have been told to go to a certain date but if their advisers have problems in that period they have to go back even further. So it is a process that is still ongoing.

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**Senator WILLIAMS:** Who in ASIC has the oversight of this? Is it you, Ms Bird? Are you representing ASIC and keeping an eye on this whole Macquarie Private Wealth revamp?

**Ms Bird:** I job share my role with someone else. That person has the primary responsibility for this.

**Senator WILLIAMS:** Is it the case, since 2006, that you are supposed to have a statement of advice when seeking financial advice?

**Ms Bird:** Yes, if you are seeking personal advice. I will just clarify: for personal advice to retail clients you would need a statement of advice. There are some limited exemptions to that requirement.

**Senator WILLIAMS:** **I put it to you that 95 per cent of the retail clients at Macquarie Private Wealth did not have a statement of advice. Will you check that out?**

**Ms Bird:** **Certainly. It is clearly one of the failings. As to a percentage, I would need to check that.**

#### **Answer:**

There is no reliable method of ascertaining how many Macquarie Private Wealth clients did not have a statement of advice. AISC had concerns that retail clients were not being provided with SOAs at the appropriate times, and the EU is designed to address this deficient as well as others. However, there are a number of other factors that impact on such a calculation – there was poor record keeping, so it is not clear who did in fact receive an SOA, whether investors were retail or wholesale, and whether advice was in fact being given, or only execution services. The outcome of the EU is intended to be improved compliance at Macquarie Private Wealth with financial services obligations, so that in the future all clients will be clearly and properly classified, and receive their advice in compliance with the law.

The Enforceable Undertaking (EU) stipulates that if Macquarie Private Wealth becomes aware of instances where a client has been adversely affected due to the failings of a Macquarie Private Wealth representative, Macquarie Private Wealth is to remediate the client where appropriate. Macquarie Private Wealth is currently undertaking a risk-based review of which clients may have been given inappropriate advice, and implementing a remediation methodology to compensate any clients who



may have suffered financial loss as a result. This is being overseen by an independent expert with reporting to ASIC.

**QoN 11: From Senator Williams P97**

**Mr Medcraft:** But, on that question, we possibly could come back pre the EU to give some indication of the sort of surveillance we did on Macquarie Private Wealth. Joanna?

**Ms Bird:** We could certainly find the records for that.

**Mr Medcraft:** Yes. So we could take that on notice. I think, pre the EU, they would have come within our proactive surveillance.

**Answer:**

Between December 2011 and August 2012, ASIC conducted a surveillance of Macquarie Private Wealth's (MPW) business and its compliance with statutory obligations. ASIC reviewed a large number of client files, as well as documents relating to MPW's compliance systems and compliance records dating from 2008. ASIC's findings in this surveillance led to the acceptance of the EU from MEL. Prior to this time, ASIC had a number of interactions with MPW relating to MPW breaches reported by MEL. In addition, ASIC has also had interaction with MEL about MPW's activities in relation to themed projects that we conducted, such as our review of the financial advice industry. This review was aimed at gathering data about the financial advice industry as a whole and the findings of this review are recorded in Report 362 *Review of financial advice industry practice: Phase 2*.

**Senator WILLIAMS:** But super funds have to have a minimum of \$10 million to be wholesale; is that correct?

**Ms Bird:** No.

**Senator WILLIAMS:** It is not?

**Ms Bird:** That is an issue on which there is significant legal uncertainty. That legal uncertainty has been publicly recognised by the government in the options paper that they put out about the wholesale-retail distinction. That was a policy paper which set out where that line should be drawn, but at the end it recognised that there was significant legal uncertainty about the particular issue that you have raised.

**Mr Kell:** But, Senator, the point you are making, which I think is the point you made a few minutes ago about firms who inappropriately seek to categorise clients as wholesale rather than retail and therefore those clients are not offered the same level of protection, is, as I think Ms Bird indicated, one we are aware of but would prefer not to discuss publicly at this point.

**Senator WILLIAMS:** I just got a message—someone is watching! 'Super funds have to have \$10 million to be wholesale. It's black and white.' That is from a financial planner. But, anyway, I will not go on. You might take it on notice.

**Answer:**

There is legal uncertainty as to the interpretation of s761G of the *Corporations Act 2001*, particularly whether "in relation to a superannuation product" in s761G(6) applies to financial services and products (other than superannuation products) made available to the trustee of a superannuation fund. This legal uncertainty has been publicly acknowledged by Treasury in a January 2011 Options Paper *Wholesale and Retail Clients Future of Financial Advice*.



**That is, it is unclear whether when a licensee provides a service to a trustee of an SMSF that does not directly relate to the SMSF itself, the licensee should be applying a test of \$10m of net assets, or whether one or more of the other tests within s761G (with lower thresholds) or, in fact, s761GA (sophisticated investor) could instead apply, to determine whether the trustee is a wholesale or retail client.**

**Mr Medcraft:** Just to clarify, because I know this particular issue myself—John, do you want to comment? Because there is a particular issue with it.

**Mr Price:** Treasury put out a paper on reforming the distinction between wholesale and retail clients, and it specifically acknowledged that there was real legal uncertainty around this question.

**Mr Medcraft:** There is an issue with the self-managed super fund, about whether the fund is a wholesale investor or not. Isn't there an issue there, as I understand it?

**Ms Bird:** Yes.

**Mr Medcraft:** What is that issue?

**Senator WILLIAMS:** What is the story with self-managed super funds—wholesale or retail?

**Mr Medcraft:** Yes, that is the issue.

**Ms Bird:** There is a significant legal debate as to whether the threshold is the \$10 million one that you have referred to, Senator Williams; and, as John just said, in January 2001 the government chose to publicly recognise that significant legal uncertainty.

**Senator WILLIAMS:** Right.

**Mr Medcraft:** So it is a bit unclear whether it is \$10 million or it is the normal or wholesale jurisdiction.

**Ms Bird:** With the lower option.

**Mr Medcraft:** That is unclear.

**Senator WILLIAMS:** **I have a couple of questions. I will have more in camera. Was ASIC aware that Macquarie Private Wealth had audited their own advisers?**

**Ms Bird:** **Had audited?**

**Senator WILLIAMS:** **Yes—their own advisers.**

**Ms Bird:** **I would have to take that on notice.**

**Mr Kell:** **In the lead-up to this? Yes.**

**Answer:**

**ASIC is aware that MEL had conducted a number of internal reviews of their advisers from 2008 to 2012.**

**Senator WILLIAMS:** Yes. I have been informed of fail rates of over 80 per cent in 2008-09, where advisers self-selected their files to be audited; fail rates of over 66 per cent in 2010-11 for compliance selected files; and fail rates of over 90 per cent in 2012-13 for compliance selected files. This is Macquarie's self-auditing. Should these findings have been reported to ASIC?

**Mr Kell:** Without going into a lot of detail, those were some of the matters that contributed to us entering this enforceable undertaking with Macquarie.

**Senator WILLIAMS:** Good. I will ask more questions in camera on that issue, Chair.





## **QoN 12: From Senator Xenophon P98 & 99 - Answer: WD and TM**

**P98**

**Senator XENOPHON:** *If I could get on notice some further details on that, that would be useful. In relation to funds lost to what I think are called boiler room scams, how much has ASIC actually recovered for investors who have been defrauded? I am happy for you to take that on notice if that would help.*

**Mr Kell:** *The short answer is very, very little, because typically the money gets sent offshore, but we can take that on notice.*

**Mr Day:** Just to give you some more information about that, we have done some very close monitoring in the past of a targeted account where money was being sent, and what we could see was that that money was being

**P99**

cleared on an hourly basis and forwarded to other accounts in other jurisdictions and then forwarded again. The money moves exceptionally quickly, so being able to even trace where those funds go is virtually impossible.

**Mr Medcraft:** *But it will come back to the extent to which we have recovered.*

**Answer:**

In the period from 2004 to present, ASIC has recovered \$1,619,500 in funds for investors that were lost to "boiler room scams".

ASIC has investigated 29 of these matters which in total represent close to \$12.5 million in funds invested. In the majority of these cases, no funds were recovered.

## **QoN 13 : From Senator Xenophon P100**

**P100**

**Senator XENOPHON:** I appreciate your answers. *It would be helpful to me, on behalf of my constituent, to establish a time line of when you began investigating it, which I take it would have been early 1999, and when you consider you had enough evidence to be able to pursue the perpetrators further and what the delay would have been between you giving that information to the Thai authorities and the Thai authorities actually acting. If you could take that on notice,* I would be very grateful.

**Mr Day:** We can. Something that needs to be cautioned here is again, as you can see, these are things from 10 years ago. In a way, those investigations were the start of a learning process for us about the appropriate way to tackle what are invariably called cold-calling scams or boiler room fraud.

In fact, Brinton was slightly different because for once there was someone in this jurisdiction, as Commissioner Kell has pointed out. More often than not, in fact in most cases, there is no-one in this jurisdiction at all. They are invariably, as the Crime Commission report says, in countries in Asia. They are operating on voice over internet protocol phone calls—virtually impossible to track—and these things move very quickly.

What we have learnt, and this has been endorsed by the Crime Commission, is that the best approach is at the earliest point to disrupt these scams, and we do that by publishing the details of the website, the details of the players as best we know and their bank account. What we know is that this is extremely successful in preventing further harm, further losses to Australian investors—and overseas investors, because often these things will be retold through the IOSCO fraud alert portal as well. Other countries will pick that up and retell that as well. Scammers, as I say, are watching that portal and it will stop that activity





straightaway. That causes significant disruption. So our timeliness in this space is extremely quick. What we do know, though, is prosecution is invariably impossible in this space.

**Mr Medcraft:** **We will come back to your question on notice.**

**Answer:**

**ASIC first began gathering information about the Brinton Group in 1999. Information was released by ASIC to the Thai SEC (and others) in August 1999 pursuant to s127 of the ASIC Act. Subsequent releases were made to the Thai SEC. ASIC also released information to the Thai (and HK) police in August 2000. Raids were conducted by Thai police and Thai SEC (the AFP were present as observers) in August 2001.**

**ASIC began its formal investigation into the Brinton Group on 12 September 2001 and it was finalised on 1 February 2002.**

#### **QoN 14: From Senator Xenophon P100**

##### **P100**

**Senator XENOPHON:** What my constituent told me, and I think he spent a lot of time on this, is that he managed with a group of private individuals who were scammed in the Brinton scam to get the funds frozen in Hong Kong and he ultimately received some of the lost funds back, along with the group of people who worked together. I guess their complaint that has been put to me, and I want to put this fairly to you, is that they managed through their own efforts to recover some of the funds but they felt that ASIC was unwilling or unable to do so. That is the nature of the criticism. I wanted to put that to you so that you could have a chance to respond to it.

**Mr Mullaly:** I think perhaps the critical word that you used there is 'unable' as opposed to 'unwilling'. Our view and the view on advice that we received was that we were unable to recover the funds from Hong Kong. That has been the case in other matters as well. As I say, we investigated another quite sophisticated cold-calling scam between January 2006 and March 2007 in which the perpetrators opened up seven different entities to undertake the fraud. In that matter we were able to freeze money in Australia and we were able to get people arrested in

##### **P101**

various countries, including in Hong Kong. We were able to recover some money from Singapore and from Malaysia but we were not able to recover the funds that were frozen in Hong Kong.

**Senator XENOPHON:** Can you please take on notice what the core of my constituent's complaint was, that ASIC said it was unable to get those funds from Hong Kong. He says that he and a small group of investors were able to freeze funds and get some of the funds back, so I am trying to understand why they could get it, and I do not understand what happened there but something does not add up to me that they managed to and they felt that ASIC could have assisted them more than it did.

**Mr Kell:** **I am happy to explore that further on notice but there is a paragraph in the letter from however long ago it is now, 13 or 14 years, that I think sets it out very clearly. Currently the funds held in Hong Kong bank accounts are restrained as a result of action by the Hong Kong police. ASIC has received external legal advice from a legal firm in Hong Kong. We sought legal advice from a firm in Hong Kong. We also sought legal advice from an Australian firm. Both of those advices stated that ASIC has no standing to take civil or criminal proceedings in Hong Kong. According to the advice we received, the law in Hong Kong states that only the contracting**



parties to a contract—which might explain why your constituent was able to take action—have standing to initiate civil proceedings in Hong Kong. The Hong Kong courts will not enforce the criminal law of another jurisdiction, including offences under Australian law. I am happy to put that again in writing.

**Answer:**

There are a few general principles that go to the heart of why ASIC could not recover funds in this matter:

1. ASIC can only enforce Australian laws in Australian courts. The operator was overseas and outside of ASIC's jurisdiction.
2. There are difficulties in repatriating funds to victims in Australia due to the current mechanics of the Proceeds of Crime legislation (i.e. they form part of consolidated revenue). Further, once funds leave Australia, they are almost impossible to recover or trace.
3. Enforcement action is difficult if offshore entities use fictitious names and are readily able to move and set up another business or website at short notice.

With regards to this matter specifically, ASIC assessed the potential options for taking further regulatory action in relation to cold calling organisations including the Brinton Group in 2001. Careful consideration was given to the evidence available and all legal issues. ASIC obtained external advice on these issues in 2001. It is very difficult to take effective enforcement action in these matters because the acts occurred in a number of different jurisdictions.

The funds that were held in the Hong Kong bank accounts were restrained as a result of action by the Hong Kong Police. ASIC received external legal advice from a legal firm in Hong Kong stating that ASIC had no standing to take civil or criminal proceedings in Hong Kong. According to the advice ASIC received, the law in Hong Kong states that only the contracting parties to a contract have standing to initiate civil proceedings in Hong Kong. Further, the Hong Kong Courts will not enforce the criminal law of another jurisdiction, including offences under Australian law.

At the time of these inquiries, there were injunctions existing in Hong Kong freezing bank accounts. The House of Lords held in 1996 that Hong Kong Courts would not grant ancillary relief (such as an injunction) in aid of foreign proceedings, which have no connection with the home jurisdiction of the Hong Kong Courts. In the relevant case, the only connection was that the company held assets in the jurisdiction, see *Mercedes Bens AG v Leiduck* (1996) 1 AC 248. Thus commencing proceedings in Australia would not enable ASIC to directly enlist the aid of the Hong Kong courts to maintain the injunctions.

Furthermore, it is ASIC's understanding that for the Hong Kong Police to obtain orders to restrain funds held in bank accounts in Hong Kong, ASIC needs to institute proceedings or have the intention of instituting proceedings for an offence punishable by at least 24 months imprisonment. ASIC did not have sufficient evidence to commence such proceedings.



**QoN 15 : From Senator Xenophon P101**

**P101**

**Senator XENOPHON:** Okay. Could you take on notice the number of external confiscation orders or mutual legal assistance requests made in the relation to these scams over the past few years. That would be quite useful to me.

**Answer:**

Electronic records from the period 2000 to 2014 were examined.

No formal requests for international assistance were identified amongst these records:

- No records of MACMA requests being made for boiler room scams were found. While the use of these requests was considered in a number of cases, they were not proceeded with.
- Similarly, no records of external confiscation orders being sought overseas or requested internationally were found.

Over 75 informal requests for international assistance were identified. These include seeking information about foreign investigations/proceedings and funds involved in these; other documents (including foreign bank account records) and affidavits to assist the CDPP's proceedings.

**QoN 16: From Senator Bishop P102**

**P102**

**CHAIR:** Was outside senior legal counsel sought before or during the decision made by the DPP to initiate the prosecution?

**Mr Savundra:** I will take that on notice, but I would assume the answer to that is yes. It is almost always the case—at least one senior counsel, and it is often more than one senior counsel. But I would like to take that on notice just so I do not mislead you.

**Answer:**

Yes, please see the answer to Question 4 in ASIC's recent submission in regard to Mr Catena. The CDPP sought Senior Counsel's advice to assist in the brief assessment process both prior to charge and during the conduct of the matter. Advice received from counsel in respect of both of the above, was to the effect that there remained at all material times a prima facie case with reasonable prospects of conviction against the accused Catena.

**QoN 17: From Senator Bishop P103**

**P103**

**CHAIR:** Did Mr Catena have counsel present?

**Mr Savundra:** I would have to take that on notice again, but it is often the case that a person of interest is legally represented. Just to add to Mr Mullaly's addition, they also have the right to claim legal professional privilege, and ASIC's position on that is



that we will not press for an answer if they can establish a proper claim for legal professional privilege.

**Answer:**

**Yes. Mr Catena appeared before ASIC for section 19 examinations on 27 February 2007 and on 11 November 2009. Mr Catena was represented by a solicitor or legal practitioner on each occasion.**

**QoN 18: From Senator Bishop P104-105**

**P104**

**CHAIR:** The Minister for Defence, Senator Johnston, put a number of questions on notice possibly in the first half of last year about the Catena matter, and I am advised that they have not yet been responded to. Is that correct?

**Mr Price:** My understanding is that they were responded to by the Commonwealth Department Public Prosecutions, but perhaps we should take that on notice.

**Mr Kirk:** They have been responded to. They are on the committee's website.

**CHAIR:** What is the reference number.

**Mr Kirk:** I do not have that with me, but it was in June 2013.

**CHAIR:** **They were responded to in June 2013. If you could let us know the reference number so that we could have a look at those in due course.** This is on notice but you

might be able to give me an indication. I am advised that there were initially four people involved in this matter, that a prosecution was initiated in the Magistrates Court in Victoria against one or more of the persons and that the matter was dismissed.

The magistrate or judge was quite strong in his language that there was no evidence or a limited amount of evidence that would warrant the matter going to trial in Victoria.

Notwithstanding that, the same facts in terms of a different set of persons were the subject of prosecution in Perth, where there is no facility for a magistrate's hearing. Why was the decision made effectively to re-prosecute on the same set of facts with one of the original parties in Perth?

**P105**

**Mr Savundra:** I do not think it is correct to say 're-prosecute'. I think the simple answer is that the evidence led in the matter of Messrs Catena, Hebbard and Nielsen—which was the WA action—was not the same evidence that was led in the McKenzie matter. For example, there were telephone recordings between Mr Catena and various persons. The prosecutions against the three individuals in Western Australia, which included Mr Catena, had already commenced at the time of the decision in relation to Mr McKenzie in Victoria. The decision of the magistrate in Victoria was carefully reviewed by the DPP and a decision was made by the director to proceed with the prosecution of the three individuals involved. It really is a question for the DPP, but we were certainly consulted in relation to that, and we agreed with the decision to proceed because the evidence was different.

**CHAIR:** You say that the additional evidence that was led in Western Australia was sufficiently material to warrant that, notwithstanding the decision of the magistrate in the McKenzie case in Melbourne.

**Mr Savundra:** That is right. I think it is worthwhile noting that one of Mr Catena's co-accused pleaded guilty and the court convicted. The court would not have convicted unless it felt there was sufficient evidence despite the plea. I guess there is further detail which I could give to the committee in camera if it would wish, in relation to the matter.

**CHAIR:** **No; you have a set of questions on notice.**

**Mr Savundra:** **We are happy to answer those.**

**CHAIR:** **If you give us a written response, that is sufficient at this stage.**

**Mr Savundra:** We can.



**Answer:**

A response to Senator Johnston's questions dated 14 June 2013 and posted 7 November 2013 has been provided by ASIC (with input from the CDPP) (Ref. No. BET 173-178). The response is public and can be found at: [http://www.aph.gov.au/~media/Estimates/Live/economics\\_ctte/estimates/bud\\_1314/Treasury/answers/bet173-178.ashx](http://www.aph.gov.au/~media/Estimates/Live/economics_ctte/estimates/bud_1314/Treasury/answers/bet173-178.ashx).

ASIC has also provided a written response to the further questions on Catena provided by the Committee.

#### **QoN 20: From Senator Bishop P107**

**P107**

**CHAIR:** So, if the shareholder or shareholders wish to pursue outstanding debts against the company, they have to pay the annual fees before they can proceed?

**Mr Tanzer:** *If there is any reinstatement, it is the rectification of the outstanding fees, I think. I will check and get the answer to you.*

**Answer:**

#### **ASIC Initiated Deregistration**

Under the Corporations Act 2001 (the Act), ASIC may initiate deregistration action where a company's annual review fee in respect of a review fee date has not been paid in full at least 12 months after the due date for payment. This action can be taken without authority of the company, or any third parties who have an interest in the status of the company for reason such as outstanding debt.

A weekly program is run to identify companies that have not paid their review fee for a period of 14 months. These companies will have received multiple invoices showing their review fee as due or overdue. For companies identified we commence the deregistration process.

We have commenced ASIC initiated deregistration action in the past 12 months<sup>9</sup> for 50,414 companies. In the same period we have completed ASIC initiated deregistration for 46,711 companies. The total number of company de-registrations, including voluntary de-registrations was 110,463<sup>10</sup>. In the same 12 month period we registered 207,976 new companies.

ASIC's Senior Executive Leader, Registry Services & Licensing is responsible for the maintenance and operation of the companies register. Company de-registration programs are run weekly using automated reports and procedures. They are administered by staff under the direction and authority of the Senior Manager Registry Services.

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<sup>9</sup> 4 April 2013 – 27 March 2014

<sup>10</sup> The difference between deregistration actions commenced and completed are due to (a) action taken by the companies in response to the initiation of deregistration - this may include payment of a review fee, lodgement of a document or an application to defer deregistration; and (b) timing in that the activity takes a number of months to complete and new programs commence weekly.



If ASIC commences deregistration action under these provisions, the Act provides that ASIC must give notification of the proposed deregistration. We will:

- send a letter to the company's registered office, its directors and, if applicable, the liquidator(s) warning of the impending deregistration;
- place the company in SOFF (strike off) status and display this on our public company register to indicate that the company is in the process of being deregistered;
- publish a notice on the [Insolvency notices website](#) advising that the company may be deregistered two months from the date of publication unless we receive an acceptable reason not to proceed;
- deregister the company two months after the notice appears on the Insolvency notices website unless we receive an acceptable reason not to proceed; and
- send a final letter to the directors, or liquidator(s) (if any) advising that the company has been deregistered.

The letter sent to warn of the impending deregistration, the notice on the Insolvency notices website, and the change of company status on the public company register all act as warnings before deregistration occurs. These indicate that the process to deregister the company has begun. The final letter sent by ASIC will advise that the company has been deregistered.

#### Stopping deregistration of the company

The letter telling of our intention to deregister the company will also explain why the action is being taken and what steps can be taken to stop deregistration. This will generally be any one or more of the following:

- pay the company's annual review fee and any late fees in full;
- lodge a document which indicates the company is carrying on business;
- lodge any further documentation we require; and
- respond to the letter in writing and advise us that the company is carrying on business.

A third party<sup>11</sup> can ask to defer deregistration of a company for the following reasons:

- legal proceedings are underway against the company; or
- there is intent to issue legal proceedings against the company.

We will defer deregistration for a period of time to allow legal proceedings to be completed.

As a pre-emptive measure an option is also available to a third party to set up an alert on a company to be notified of changes to that company's record (including commencement of deregistration).

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<sup>11</sup> Including creditors and shareholders





## Company Reinstatement

Applications for deferral of deregistration must be made before the company is deregistered. After the company has been deregistered, an application for the reinstatement of the company can be made to either ASIC or the court. Our Regulatory Guide 83 *Reinstatement of companies (RG 83)* provides more information.

ASIC may reinstate a company that has been deregistered for non-payment of their review fees if we are satisfied that the company should not have been deregistered. We will consider if:

- There was a procedural defect or oversight on the part of ASIC prior to the deregistration; or
- The company was carrying on business or was in operation at the time it was deregistered.

To apply to ASIC for the reinstatement the company must complete the *Application for ASIC Reinstatement* and:

- lodge a statutory declaration supported by appropriate documentation (where applicable);
- pay all outstanding annual review fees, late review and late lodgement fees (if any) in full;
- pay any outstanding penalty issued under a penalty notice to the company or one of the officers of the company, court-ordered fines and ASIC court costs; and
- pay the prescribed fee for the application for reinstatement.

When a company becomes deregistered, it is no longer recorded on our database as a registered company, and therefore ceases to exist as a separate legal entity.

Reinstatement returns the company to registered status as if it was never deregistered.

If the criteria for ASIC reinstatement are not met, an application can be made to the court for an order that ASIC reinstates the company.

## Insolvency Notices Website

The website is a publication website for certain notices required to be published under the Corporations Act 2001, including notices by ASIC of its intention to deregister a company.

ASIC maintains the website as a factual historical record of notices required to be published under the Corporations Act 2001.

On some occasions, ASIC does not proceed to deregister a company the subject of a notice of intention to deregister. However, there is no requirement under the Corporations Act 2001 to publish on the website a subsequent notice where ASIC does not proceed to deregister a company. So, while the intention to deregister may no longer be current, the notice will remain on the website and be searchable as an historical record.



A search of ASIC's database using the "ASIC Connect" facility on ASIC's website can be undertaken to check whether a company was deregistered after publication of a notice of intention to deregister. ASIC cannot deregister a company until two months have passed from the publication of the notice on the website.

In response to customer feedback, in particular the Sub Sea Pipeline matter, we have recently<sup>12</sup> implemented process enhancements for our company notifications and publishing of notices on the website. The changes implemented were to:

- allow for an 11 day period, from commencement of the process, to send a physical notice via mail of ASIC's intent to deregister the company before publishing the notice on the Insolvency Notices Website. This allows the company directors additional time to respond prior to the notice publication on the Insolvency Notices Website. Prior to this change, there was a 5 day period between sending of the letter and notice publication; and
- prior to authorising publication of the notice on the Insolvency Notices Website, we check and remove any companies who paid their outstanding annual review fee in the 11 day period.

ASIC also has discretion to remove a notice from the Insolvency Notices website in exceptional circumstances. The Sub-Sea pipeline matter is an example of this occurring.

**QoN 21 (or may be written as a brief): From Senator Bishop P107-108 - Answer: GF**

**P107**

**CHAIR:** Yes. Submission 170 and a series of others went to LM Investment Management. This is the last question, Mr Tanzer; the rest are on notice. In total, how much was invested through LM Investment Management?

**Mr Tanzer:** There are seven registered managed investment schemes. There are approximately 4,500 investors in the managed performance fund, which is the largest of those schemes, with \$408 million in it. As at the date of appointment of administrators to LM, which was 19 March last year, LM as a group, or as a whole, under those seven schemes, was responsible for managing at least \$800 million on behalf of approximately 12,000 investors in Australia and overseas.

**CHAIR:** What investigations did ASIC have underway into LM Investments before the ABC's *Four Corners* aired its story in March last year?

**Mr Tanzer:** There were a range of investigations that we had underway. A number of the actions that we took actually go back to some years before. In respect of the managed performance fund, we had become aware of concerns in late 2012, and we commenced inquiries around that time.

**CHAIR:** When you commenced those inquiries in late 2012, did you find that LM did not obtain any independent valuations of its assets?

**Mr Tanzer:** That is quite a detailed question and I would prefer to take it on notice, because there are different funds at different times where this question of independent valuations comes up. But the core issue around the issue of the Maddison Estate, which was the key asset of the managed performance fund—the issue of what valuations were in place—is a core part of our investigation, so I would rather—

**CHAIR:** Then or now?

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<sup>12</sup> October 2013



P108

**Mr Tanzer:** Continuing.

**CHAIR:** So then and now?

**Mr Tanzer:** Then and now.

**CHAIR:** Were LM's business practices examined in detail in 2012?

**Mr Tanzer:** We commenced more detailed investigation into the managed performance fund after the end of 2012. There had been work that we had done with LM as a responsible entity in the years leading up to that in relation to some of the other schemes, largely relating to the conduct of the funds and their management of them and many of which related to hidden changes to disclosure to investors.

**CHAIR:** Were you sufficiently alert, sufficiently early, in the matter of LM Investments?

**Mr Tanzer:** It depends on the matter that you allude to, but, writ large, the particular matter that is of concern at the moment, and was the concern of the submissions that were made here, relates to the managed performance fund.

**CHAIR:** It does.

**Mr Tanzer:** That managed performance fund is not a registered scheme in Australia. It is a wholesale fund. It cannot be sold to retail investors in Australia. The large proportion of concerns that have come to the committee are on behalf of overseas investors and in particular are made by financial advisers who appear to have acted for those foreign investors.

**CHAIR:** Where is the scheme registered?

**Mr Tanzer:** The managed performance fund is not registered. It is a wholesale scheme.

**CHAIR:** Where is it—what is the word?—listed or—

**Mr Day:** Where is domiciled?

**Mr Tanzer:** I think it is domiciled here but I would need to check that. But it is not a regulated scheme. It is a wholesale scheme.

**Mr Medcraft:** So therefore it does not require registration.

**Mr Mullaly:** It is a trust.

**Mr Medcraft:** It is not offered to retail.

**CHAIR:** This is going to get quite technical, isn't it?

**Mr Tanzer:** **It will. I am happy to provide a more detailed brief here.**

**CHAIR:** **I think you are going into some technical areas and, whilst they are interesting, I would rather have a considered response.**

**Mr Medcraft:** **We will take questions on notice.**

**Mr Price:** **Are there any particular aspects, Senator?**

**CHAIR:** **The questions I have got here—but they derive from the submissions—go into: if ASIC had stepped in earlier, could losses have been reduced and not incurred by some clients; the role of the overseas investors; complaints about fees being charged.**

**Mr Tanzer:** This is where there are a mix of issues that you are raising, so—

**CHAIR:** **There are. Take this stuff on notice.**

**Mr Medcraft:** **We will take it on notice.**

**CHAIR:** The rest of those individual submissions—I think we provided you with about 25—

**Mr Medcraft:** Virtually all of them were investors in the wholesale fund?

**Mr Tanzer:** The managed performance fund is a wholesale fund.

**Mr Medcraft:** Sorry; the managed—

**Mr Tanzer:** There were a series of concerns that Australian investors had raised about a firm called the First Mortgage Income Fund, including, I think, some of the concerns that you are referring to there about fees. The First Mortgage Income Fund was a registered fund in Australia. It was frozen, like a number of mortgage funds were frozen, following the global financial crisis.

**Mr Medcraft:** **We will take the questions on notice.**

**Mr Tanzer:** That is why I do want to be quite careful about the distinction between the two.



**Answer:**

**Please see answer to submissions 170 (Advisers' Committee for Investors), 444, (Name withheld), 445 (Name withheld), 446 (Paul Freidberg), 447 (OFS Spain Ltd), 448 (Financial Page International) – LM Investment Management**

# Misconduct & Breach Reporting

## *Risk & Trend Analysis - 1 October 2011 to 31 December 2011*

This report contains a snapshot of the 3394 misconduct and breach reports that we received between 1 October 2011 and 31 December 2011.

Where necessary, data for:

- the whole 2010-2011 financial year
- the October - December 2010 quarter
- the current financial year-to-date, and
- the Jun - September 2011 quarter

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from October 2011 to December 2011, according to financial economy sphere.

**Table 1: Sphere analysis**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011 - 2012 Oct - Dec Breakdown			2010-2011 Oct - Dec	2010-2011 Full Year
				Oct%	Nov%	Dec%		
<b>Total #</b>	7276	3882	3394	1154	1305	935	3941	17099
<b>Corporations/ Corporate Governance</b>								
Non-Insolvency Matters	35%	32%	38%	38%	40%	34%	32%	32%
Insolvency Matters*	8%	9%	8%	8%	8%	8%	8%	8%
<b>Financial Services/ Retail Investors<sup>#</sup></b>								
Non-Credit Matters	31%	33%	29%	29%	25%	32%	26%	34%
Credit Matters	14%	12%	15%	14%	16%	15%	22%	14%
<b>Market Integrity</b>	5%	5%	4%	4%	4%	5%	5%	4%
<b>Registry &amp; Licensing</b>	5%	6%	5%	6%	4%	5%	5%	5%
<b>Other</b>	2%	3%	2%	1%	3%	1%	2%	3%
<b>Total %</b>	100%	100%	100%	100%	100%	100%	100%	100%

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

<sup>#</sup> FSRI matters are separated into Credit Matters and Non-Credit Matters.

This table shows that the number and percentage of reports received by ASIC has remained relatively consistent since July 2010. There has been some monthly variation, especially in terms of reports received within the Financial Services / Retail Investors sphere, but nothing that indicates any permanent change to this established pattern.

Figure 1 below shows a breakdown of Complaints and Breach reports received by ASIC between October 2011 and December 2012 and Figure 2 shows the breakdown for December 2011.

Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2011 - June 2012

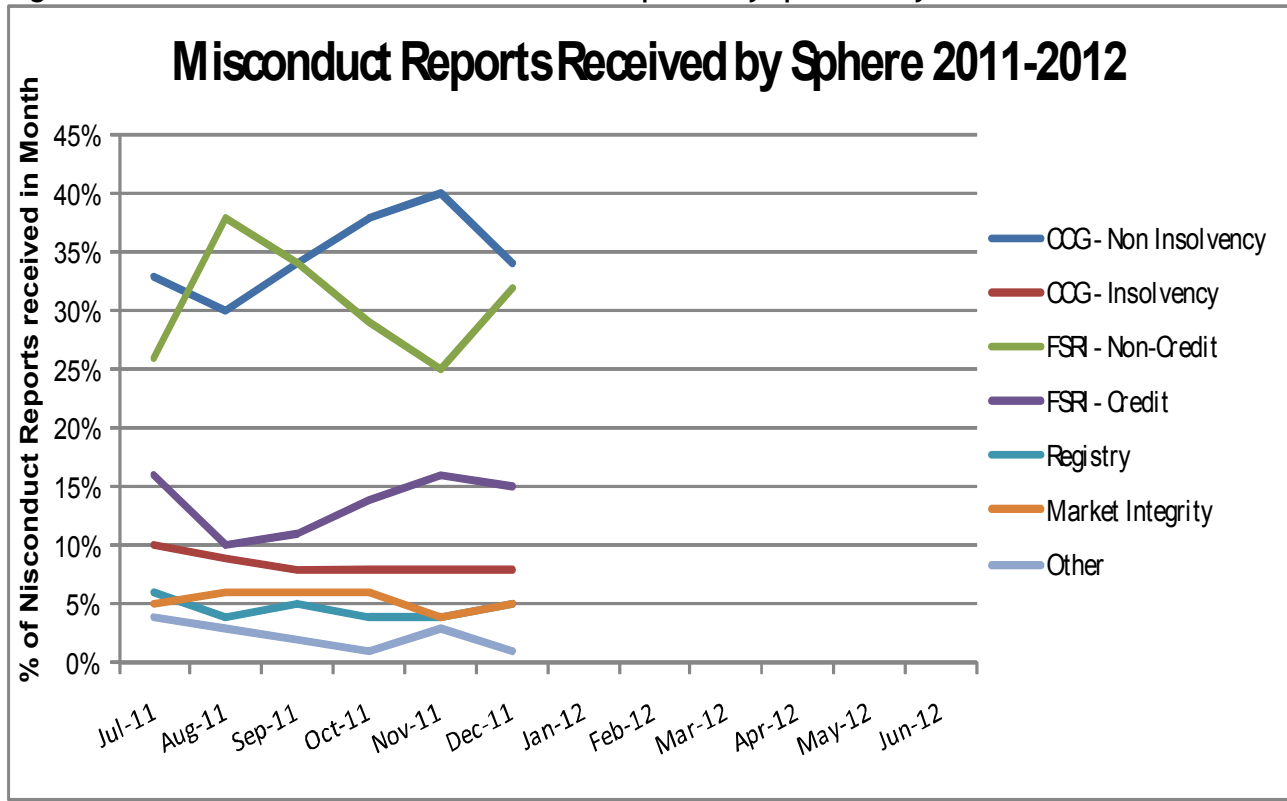
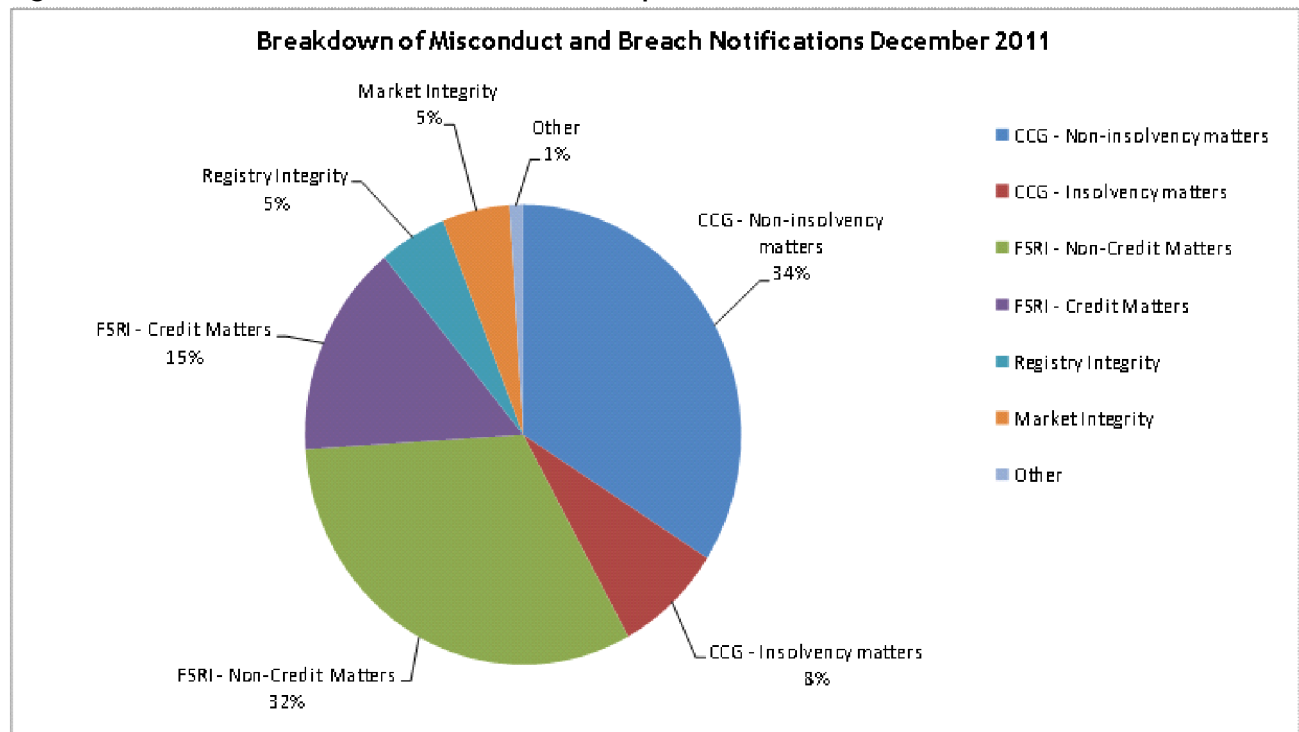


Figure 2: Breakdown of Misconduct and Breach Reports - December 2011





**Table 2: Corporations / Corporate Governance - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011 - 2012 Oct-Dec Breakdown			2010-2011 Oct - Dec	2010-2011 Full Year
				Oct%	Nov%	Dec%		
<b>Total #</b>	7276	3882	3394	1154	1305	935	3941	17099
CCG - EXAD assistance request (RATA, books & records).	8%	8%	8%	9%	9%	7%	7%	8%
CCG - insolvent trading - unlisted.	6%	7%	5%	5%	7%	6%	5%	5%
CCG - contractual issues.*	6%	5%	8%	5%	12%	8%	4%	5%
CCG - directors' duties.	3%	3%	3%	3%	5%	2%	3%	3%
Insolvency Practitioner Misconduct	3%	3%	4%	2%	6%	4%	2%	2%

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the five key CCG issues have remained relatively unchanged since July 2010, with only a small variation in their relative frequencies each quarter during that time.

The full list of issues for October to December 2011 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul-Sept	2011-2012 Oct-Dec	2011 - 2012 Oct-Dec Breakdown			2010-2011 Oct-Dec	2010-2011 Full Year
				Oct%	Nov%	Dec%		
<b>Total #</b>	7276	3882	3394	1154	1305	935	3941	17099
Credit - debtor harassment, fees and interest rates, other	14%	12%	15%	12%	16%	15%	22%	15%
Advisors - quality of advice, dishonest conduct, licence obligations	12%	711	12%	12%	12%	12%	10%	9%
Unregistered managed investment scheme, providing a financial service without a licence	5%	6%	4%	5%	2%	5%	3%	3%
Scams	4%	4%	4%	3%	5%	4%	5%	4%
Managed investment scheme - general, frozen fund, disclosure (PDS)	4%	5%	3%	3%	2%	4%	2%	12%

Similarly to the Corporations / Corporate Governance sphere in Table 2, Table 3 shows that since July 2011 a small number of issues have held the top five positions for the Financial Services / Retail Investors sphere.

The degree of variability within the FSRI sphere is greater on a month-to-month basis because the categories within this sphere are more likely to experience sudden high volume reports of misconduct with respect to a small number of companies. This can be seen particularly within the Credit category where the percentage for October - December 2010 - 2011 is particularly high (22%). This

was brought about due to the large number of persons and entities who were submitting documentation in order to comply with the new requirements for Credit Licensing, which needed to be submitted before the end of December.

The full list of issues for October to December 2011 is detailed in Appendix A.

**Table 4: Market Integrity - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul- Sept	2011-2012 Oct - Dec	2011 - 2012 Oct-Dec Breakdown			2010-2011	2010-2011
				Oct%	Nov%	Dec%	Oct - Dec	Full Year
Total #	7276	3882	3394	1154	1305	935	3941	17099
Market manipulation.	1%	1%	1%	1%	1%	1%	1%	1%
Insider trading.	1%	1%	1%	1%	1%	1%	1%	1%
Continuous disclosure listed.	1%	1%	1%	1%	1%	1%	1%	1%
Misleading statements.	1%	1%	1%	1%	0%	1%	0%	<.5%
Director's interest notification.	<.5%	1%	<.5%	1%	<.5%	-	<.5%	<.5%

Table 4 clearly shows that there is very little variation in this sphere, with the same categories having occupied the top 5 positions since July 2010.

The full list of issues for October to December 2011 is detailed in Appendix A.

## Appendix A -Misconduct & Breach Reports Received Between October and December 2011

Report – Subgroup		Keyword Phrase	Oct	Nov	Dec	Total
Corporations / Corporate Governance	Insolvency Matters	CCG - insolvent trading - unlisted.	62	66	54	182
		CCG - phoenix activity.	18	20	11	49
		CCG - avoiding employee entitlements.	6	10	10	26
		CCG - insolvent trading - listed.	0	3	1	4
	Insolvency Matters Total		86	99	76	261
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - failing to act in creditors' interests.	9	11	5	25
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	2	13	6	21
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.	6	7	5	18
		CCG - insolvency practitioner misconduct - charging excessive remuneration / costs.	2	13	2	17
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence.	3	5	7	15
		CCG - insolvency practitioner misconduct - inadequate investigations.	2	2	4	8
		CCG - insolvency practitioner misconduct - favouring directors or related parties.	4	0	3	7
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix activity.	1	2	1	4
		CCG - insolvency practitioner misconduct - inadequate remuneration disclosure / inadequate remuneration approval.	0	1	2	3
		CCG - insolvency practitioner misconduct - fraud.	2	0	1	3
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor meetings.	1	0	2	3
	Insolvency Practitioner Misconduct Total		32	54	38	124
	Non-Insolvency Matters	CCG - EXAD assistance request (RATA, books & records).	117	87	66	270
		CCG - contractual issues.	71	108	79	258
		CCG - directors' duties.	38	47	20	105
		CCG - internal dispute.	23	26	10	59
		CCG - late lodgement / non-lodgement of financial reports.	10	38	11	59
		CCG - other corporations / corporate governance misconduct.	16	23	15	54
		CCG - director disqualification.	10	32	3	45
		CCG - lodging false or misleading documents.	11	11	15	37
		CCG - managing whilst disqualified.	14	12	9	35
		CCG - meetings of members - AGM, EGM.	14	16	4	34
		CCG - illegal fundraising - illegal offer of securities without prospectus.	13	7	6	26
		Auditor breach report - qualified audit report.	7	11	7	25
		CCG - fraud by officer / misappropriation of company funds.	11	7	5	23
		CCG - carrying on business whilst unregistered.	6	5	5	16

		CCG - other financial reporting.	3	10	3	16	
		CCG - other corporations / corporate governance fraud.	3	7	2	12	
		CCG - takeover.	5	1	6	12	
		CCG - disclosure (prospectus, offer information statement - shares & debentures).	3	4	2	9	
		CCG - related party transactions - conflicts of interest.	3	3	3	9	
		Auditor breach report - going concern.	8	0	0	8	
		CCG - faulty product / workmanship.	4	2	1	7	
		CCG - meetings of members - proxy forms.	0	6	1	7	
		CCG - schemes of arrangement.	6	1	0	7	
		Auditor breach report - non-compliance with accounting standards.	4	1	1	6	
		CCG - auditor misconduct.	0	3	3	6	
		CCG - buybacks, selective capital reduction.	4	0	2	6	
		CCG - executive remuneration.	1	1	2	4	
		CCG - offences by officers (s471A, s590, s596).	2	1	1	4	
		CCG - illegal fundraising - illegal offer of debentures without prospectus.	0	0	1	1	
		CCG - beneficial tracing notice.	1	0	0	1	
		Non-Insolvency Matters Total		408	470	283	1161
	Corporations / Corporate Governance Total			526	623	397	1546
Financial Services / Retail Investors	Advisers	FSRI - advisers - licence obligations - s912A general obligations.	119	125	92	336	
		FSRI - advisers - dishonest conduct (licensee / authorised representative).	17	7	3	27	
		FSRI - advisers - quality of advice.	9	9	8	26	
		FSRI - advisers - supervision of authorised and other representatives.	11	8	6	25	
		FSRI - disclosure - (FSG, SOA - advisers).	2	1	1	4	
		FSRI - advisers - fraud.	1	1	0	2	
		FSRI - advisers - conflict of interest.	0	1	0	1	
	Advisers Total		159	152	110	421	
	Credit (ADI)	FSRI - credit (ADI) - licence obligations - s47 general obligations.	4	5	5	14	
		FSRI - credit (ADI) - credit cards / store cards.	2	3	6	11	
		FSRI - credit (ADI) - unconscionable conduct.	3	4	4	11	
		FSRI - credit (ADI) - fees and interest rates.	2	4	3	9	
		FSRI - credit (ADI) - debt collection, default notices and recovery.		2	5	7	
		FSRI - credit (ADI) - debtor harassment.	3	3	1	7	
		FSRI - credit (ADI) - unlicensed conduct.	3	2	1	6	
		FSRI - credit (ADI) - fraud.	2	1	2	5	
		FSRI - credit (ADI) - hardship.	1	3	1	5	
		FSRI - credit (ADI) - misleading or deceptive conduct.	2	1	2	5	
FSRI - credit (ADI) - other.		1	3	1	5		

	FSRI - credit (ADI) - home loans.	2	1	1	4
	FSRI - credit (ADI) - advertising.	1	1	1	3
	FSRI - credit (ADI) - responsible lending.	2	1	0	3
	FSRI - credit (ADI) - personal loans.	1	0	1	2
	FSRI - credit (ADI) - investment loans.	1	0	1	2
	FSRI - credit (ADI) - EDR / IDR.	0	0	1	1
	FSRI - credit (ADI) - unsolicited credit or limit increase.	0	0	1	1
	FSRI - credit (ADI) - loan refinancing.	0	1	0	1
	FSRI - credit (ADI) - contracts - unjust / unfair / unconscionable.	1	0	0	1
<b>Credit (ADI) Total</b>		<b>31</b>	<b>35</b>	<b>37</b>	<b>103</b>
<b>Credit (non-ADI)</b>	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	56	48	55	159
	FSRI - credit (non-ADI) - unlicensed conduct.	13	34	9	56
	FSRI - credit (non-ADI) - debtor harassment.	10	17	8	35
	FSRI - credit (non-ADI) - debt collection, default notices and recovery.	10	10	5	25
	FSRI - credit - UCOIL - non lodgement - ACC.	0	23	0	23
	FSRI - credit (non-ADI) - misleading or deceptive conduct.	11	3	3	17
	FSRI - credit (non-ADI) - unconscionable conduct.	1	6	5	12
	FSRI - credit (non-ADI) - advertising.	2	9	0	11
	FSRI - credit (non-ADI) - responsible lending.	3	2	5	10
	FSRI - credit (non-ADI) - contracts - unjust / unfair / unconscionable.	5	1	3	9
	FSRI - credit (non-ADI) - fraud.	1	3	4	8
	FSRI - credit (non-ADI) - home loans.	3	3	2	8
	FSRI - credit (non-ADI) - other.	2	3	2	7
	FSRI - credit (non-ADI) - personal loans.	4	1	2	7
	FSRI - credit (non-ADI) - fees and interest rates.	1	3	1	5
	FSRI - credit (non-ADI) - broker / introducer.	1	1	1	3
	FSRI - credit (non-ADI) - EDR / IDR.	0	3	0	3
	FSRI - credit (non-ADI) - credit cards / store cards.	1	2	0	3
	FSRI - credit (non-ADI) - short term / payday loans.	0	2	0	2
	FSRI - credit (non-ADI) - hardship.	0	1	0	1
	FSRI - credit (non-ADI) - loan refinancing.	1	0	0	1
	FSRI - credit (non-ADI) - margin loans.	1	0	0	1
<b>Credit (non-ADI) Total</b>		<b>126</b>	<b>175</b>	<b>105</b>	<b>406</b>
<b>Deposit Takers</b>	FSRI - deposit takers - bank account.	2	5	2	9
	FSRI - deposit takers - unfair contract term.	0	1	0	1
<b>Deposit Takers Total</b>		<b>2</b>	<b>6</b>	<b>2</b>	<b>10</b>
<b>IDR/EDR Total</b>		<b>6</b>	<b>0</b>	<b>2</b>	<b>8</b>
<b>Indigenous</b>	FSRI - credit - indigenous.	0	0	1	1

	FSRI - indigenous - financial services.	0	0	1	1
<b>Indigenous Total</b>		<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>
<b>Insurance</b>	FSRI - insurance.	6	10	10	26
	FSRI - disclosure - (PDS - Insurance).	1	0	0	1
<b>Insurance Total</b>		<b>7</b>	<b>10</b>	<b>10</b>	<b>27</b>
<b>Investment Banks</b>	FSRI - IB - contracts for difference (CFD).	0	4	0	4
	FSRI - IB - derivative.	0	0	2	2
	FSRI - IB - stock lending.	0	0	2	2
<b>Investment Banks Total</b>		<b>0</b>	<b>4</b>	<b>4</b>	<b>8</b>
<b>Managed Investment Scheme</b>	FSRI - managed investment scheme - other.	18	6	9	33
	FSRI - managed investment scheme - compliance plan.	5	3	19	27
	FSRI - managed investment scheme - frozen fund.	6	7	3	16
	FSRI - managed investment scheme - member reporting.	3	4	2	9
	FSRI - disclosure - (PDS - managed investment scheme).	2	1	2	5
	FSRI - managed investment scheme - unit pricing.	2	1	2	5
	FSRI - managed investment scheme - fees & charges.	1	1	1	3
	FSRI - managed investment scheme - related party transactions.	0	2	0	2
	FSRI - managed investment scheme - fraud.	2	0	0	2
<b>Managed Investment Scheme Total</b>		<b>39</b>	<b>25</b>	<b>38</b>	<b>102</b>
<b>Margin Lending Total</b>		<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>Misconduct</b>	FSRI - misleading or deceptive conduct - (financial service or product).	16	0	20	36
	FSRI - disclosure - (PDS - other).	1	20	1	22
	FSRI - unconscionable conduct - (financial service or product).	0	1	0	1
<b>Misconduct Total</b>		<b>17</b>	<b>21</b>	<b>21</b>	<b>59</b>
<b>Retail Investor</b>	FSRI - other financial services / retail investors misconduct.	5	10	6	21
	FSRI - other financial services / retail investors fraud.	3	2	4	9
<b>Retail Investor Total</b>		<b>8</b>	<b>12</b>	<b>10</b>	<b>30</b>
<b>Scam</b>	FSRI - scams - cold calling.	15	31	22	68
	FSRI - sports arbitrage / gambling scheme.	2	8	7	17
	FSRI - scams - money transfer schemes (job opportunity).	5	6	2	13
	FSRI - scams - Nigerian.	5	4	0	9
	FSRI - scams - fake debt invoices.	1	3	2	6
	FSRI - scams - phishing.	0	4	2	6
	FSRI - scams - lottery.	3	0	2	5
	FSRI - scams - identity theft.	2	1	1	4
	FSRI - scams - fake credit / loan.	0	2	0	2



Scam Total			33	59	38	130
Superannuation		FSRI - superannuation - other.	2	4	3	9
		FSRI - disclosure - (PDS - superannuation funds, member statements).	2	1	2	5
		FSRI - superannuation - fees & commissions.	0	2	2	4
		FSRI - superannuation - fraud.	1	0	1	2
		FSRI - superannuation - illegal early access.	0	0	1	1
Superannuation Total			5	7	9	21
Unregistered/Unlicensed		FSRI - providing a financial service without a licence.	61	27	44	132
		FSRI - unregistered managed investment scheme.	7	2	5	14
Unregistered/Unlicensed Total			68	29	49	146
Unsolicited Offer Total			2	4	1	7
Financial Services / Retail Investors Total			503	539	439	1481
Market Integrity	Market Integrity	MI - market manipulation.	16	12	12	40
		MI - insider trading.	12	9	7	28
		MI - continuous disclosure listed.	10	11	6	27
		MI - misleading statements.	8	5	11	24
		MI - director's interest notification.	7	6	0	13
		MI - market integrity rules.	5	2	2	9
		MI - market participant / stockbroker misconduct.	0	2	4	6
		MI - substantial shareholding notification.	2	1	2	5
		MI - continuous disclosure unlisted.	4	0	1	5
		MI - short selling.	0	1	2	3
		MI - market operator misconduct.	0	2	0	2
Market Integrity Total			64	51	47	162
Registry Integrity	Registry Integrity	REG - address offence.	24	34	23	81
		REG - other.	15	16	10	41
		REG - other registry fraud.	5	2	4	11
		REG - didn't consent to be a director.	2	1	3	6
		REG - request to halt deregistration.	0	3	3	6
		REG - no directors.	1	1	1	3
Registry Integrity Total			47	57	44	148
Other	Other	AUSTRAC - suspect transaction report (sustr).	8	28	5	41
		Other	6	6	2	14
		Suspicious international capital flow.	0	0	1	1
		Administrative Law - AAT.	0	1	0	1
Other Total			14	35	8	57
Grand Total			1154	1305	935	3394

# Misconduct & Breach Reporting

## *Risk & Trend Analysis - 1 January 2012 to 31 March 2012*

This report contains a snapshot of the 3394 misconduct and breach reports that we received between 1 January 2012 and 31 March 2012.

Where necessary, data for:

- the current financial year-to-date,
- the July - September 2011 quarter,
- the October - December 2011 quarter,
- the January - March 2011 quarter, and
- the whole 2010-2011 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from January 2012 to March 2012, according to financial economy sphere.

**Table 1: Sphere analysis**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011 - 2012 Jan - Mar Breakdown			2010-2011 Jan - Mar <sup>‡</sup>	2010-2011 Full Year
					Jan%	Feb%	Mar%		
<b>Total #</b>	<b>10810</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>1034</b>	<b>1266</b>	<b>1234</b>	<b>5319</b>	<b>17099</b>
<b>Corporations/ Corporate Governance</b>									
Non-Insolvency Matters	36%	32%	38%	37%	37%	38%	36%	28%	32%
Insolvency Matters*	8%	9%	8%	9%	9%	9%	9%	7%	8%
<b>Financial Services/ Retail Investors<sup>#</sup></b>									
Non-Credit Matters	28%	33%	29%	21%	21%	21%	23%	43%	34%
Credit Matters	16%	12%	15%	21%	22%	19%	21%	13%	14%
<b>Market Integrity</b>	<b>5%</b>	<b>5%</b>	<b>4%</b>	<b>6%</b>	<b>5%</b>	<b>7%</b>	<b>5%</b>	<b>4%</b>	<b>4%</b>
<b>Registry &amp; Licensing</b>	<b>5%</b>	<b>6%</b>	<b>5%</b>	<b>4%</b>	<b>4%</b>	<b>4%</b>	<b>4%</b>	<b>3%</b>	<b>5%</b>
<b>Other</b>	<b>2%</b>	<b>3%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>3%</b>
<b>Total %</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

<sup>#</sup> FSRI matters are separated into Credit Matters and Non-Credit Matters.

<sup>‡</sup> Data for this quarter includes 1384 complaints regarding Australian Property Custodian Holdings Limited. This large volume of matters caused a blow-out of the Non-Credit Matter percentage, and a consequent apparent decline in all other percentages.

The two trends worth noting in this data are the decrease the percentage of Non-Credit Matters received during the last three quarters, and the increase in the percentage of Credit Matters during the same period.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between July 2011 and March 2012 and Figure 2 shows the breakdown for March 2012.

Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2011 - June 2012

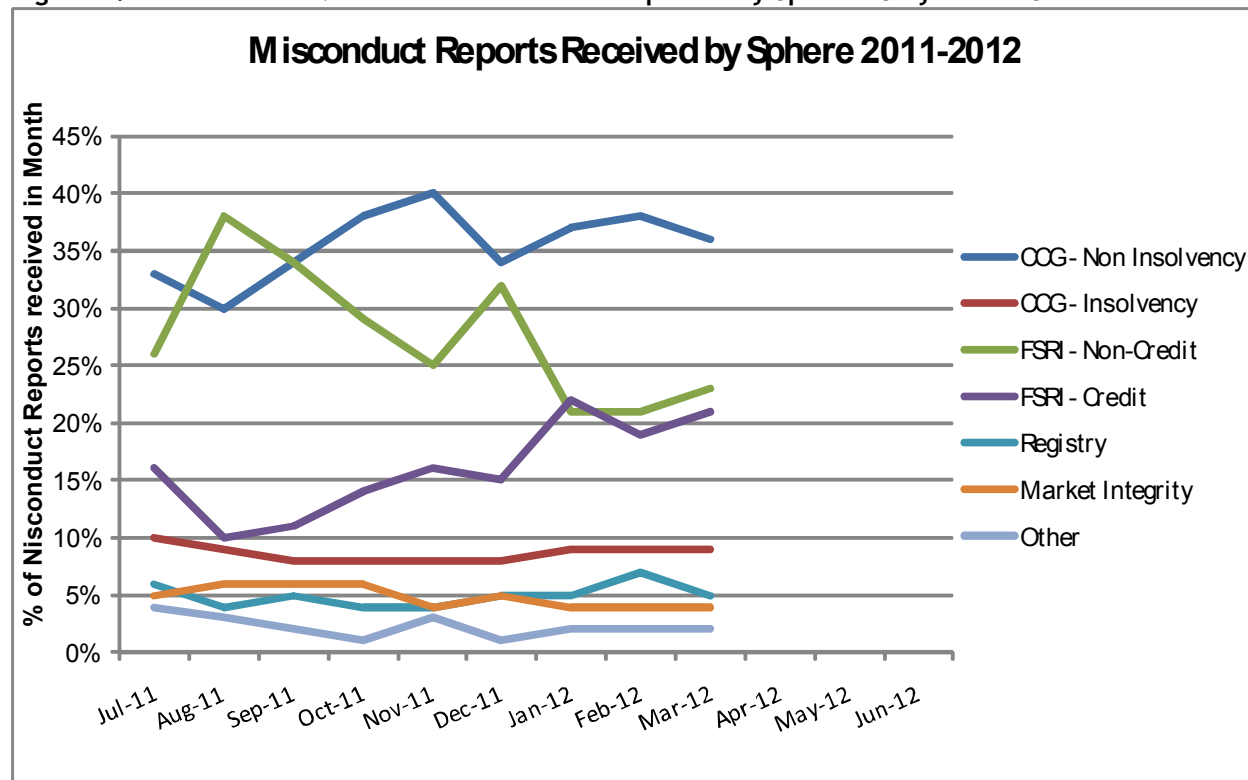
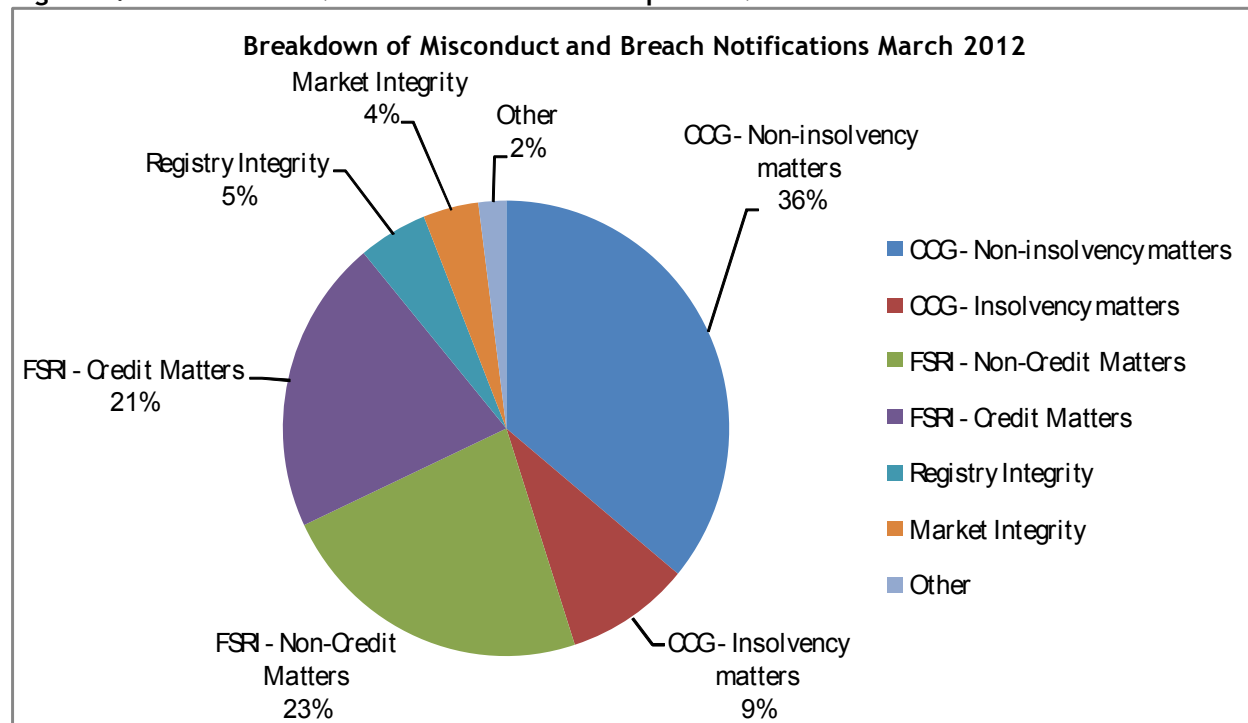


Figure 2: Breakdown of Misconduct and Breach Reports - March 2012



**Table 2: Corporations / Corporate Governance - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011 - 2012 Jan-Mar Breakdown			2010-2011 Jan - Mar	2010-2011 Full Year
					Jan%	Feb%	Mar%		
<b>Total #</b>	<b>10810</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>1034</b>	<b>1266</b>	<b>1234</b>	<b>5319</b>	<b>17099</b>
CCG - EXAD assistance request (RATA, books & records).	8%	8%	8%	12%	7%	14%	12%	8%	8%
CCG - insolvent trading - unlisted.	6%	7%	5%	7%	5%	7%	6%	5%	5%
CCG - contractual issues.*	6%	5%	8%	6%	6%	6%	5%	5%	5%
CCG - directors' duties.	3%	3%	3%	3%	2%	2%	3%	2%	3%
Insolvency Practitioner Misconduct	3%	3%	4%	2%	2%	3%	3%	2%	2%

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the five key CCG issues have remained relatively stable since July 2010, with the exception of an increase in the percentage of Liquidator assistance matters received in February and March. There is typically an increase in these matters in the early part of each year, so this increase was not unexpected.

The full list of issues for January to March 2012 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011 - 2012 Jan - Mar Breakdown			2010-2011 Jan - Mar*	2010-2011 Full Year
					Jan%	Feb%	Mar%		
<b>Total #</b>	<b>10810</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>1034</b>	<b>1266</b>	<b>1234</b>	<b>5319</b>	<b>17099</b>
Credit - debtor harassment, fees and interest rates, other	14%	12%	15%	19%	18%	16%	21%	13%	15%
Advisors - quality of advice, dishonest conduct, licence obligations	12%	11%	12%	7%	4%	8%	7%	5%	9%
Unregistered managed investment scheme, providing a financial service without a licence	5%	6%	4%	3%	2%	2%	4%	3%	3%
Scams	4%	4%	4%	3%	3%	3%	3%	3%	4%
Managed investment scheme - general, frozen fund, disclosure (PDS)	4%	5%	3%	2%	2%	2%	2%	27%	12%

\* Data for this quarter includes 1384 complaints regarding Australian Property Custodian Holdings Limited. This large volume of matters, plus additional matters in April, caused a blow-out of the Managed Investment Scheme percentage for this quarter and for the 2010-2011 financial year, and a consequent apparent decline in all other percentages.

As noted at the bottom of page 1 of this report, there has been a decrease in the percentage of Non-Credit Matters received during the last three quarters, and an increase in the percentage of Credit Matters during the same period. The increasing trend for Credit related matters can be seen in the data in Table 3 as well as the chart in Figure 1 (refer Page 2). Because Non-Credit Matters are broken down into many more categories than Credit Matters, the declining trend for these matters is less obvious in Table 3 above, although it can also be seen in the chart in Figure 1.

Although it is too early to be sure, the change in the slope of the Non-Credit Matter portion of the chart in Figure 1 may indicate that this declining trend has come to an end, and possible may be reversing. This is also hinted at by the increase in the percentage of reports regarding Adviser misconduct in February and March.

The degree of variability within the FSRI sphere is greater on a month-to-month basis because the categories within this sphere are more likely to experience sudden high volume reports of misconduct with respect to a small number of companies. This can be seen particularly within the Managed Investment Scheme category where the percentage for Jan-Mar quarter for the 2010-2011 financial year is particularly high (27%). This was brought about due to the large number of complaints received in March 2011 regarding Australian Property Custodian Holdings Limited.

The full list of issues for January to March 2012 is detailed in Appendix A.

**Table 4: Market Integrity - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul- Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011 - 2012 Jan - Mar Breakdown			2010-2011	2010-2011
					Jan%	Feb%	Mar%	Jan - Mar	Full Year
Total #	10810	3882	3394	3534	1034	1266	1234	5319	17099
Market manipulation.	1%	1%	1%	1%	1%	1%	0%	1%	1%
Insider trading.	1%	1%	1%	1%	1%	<.5%	1%	1%	1%
Continuous disclosure listed.	1%	1%	1%	1%	1%	2%	1%	1%	1%
Misleading statements.	1%	1%	1%	1%	1%	1%	1%	<.5%	<.5%
Director's interest notification.	<.5%	1%	<.5%	<.5%	<.5%	<.5%	<.5%	<.5%	<.5%

Table 4 clearly shows that there is very little variation in this sphere, with the same categories having occupied the top 5 positions since July 2010.

The full list of issues for January to March 2012 is detailed in Appendix A.



## Appendix A -Misconduct & Breach Reports Received Between January and March 2012

Complaint Sphere	Complaint Sub Group	Keyword Phrases	Jan	Feb	Mar	Total
Corporations / Corporate Governance	Insolvency Matters	CCG - avoiding employee entitlements.	14	8	10	32
		CCG - insolvent trading - listed.	3	1	1	5
		CCG - insolvent trading - unlisted.	64	88	78	230
		CCG - phoenix activity.	13	11	18	42
	<b>Insolvency Matters Total</b>		<b>94</b>	<b>108</b>	<b>107</b>	<b>309</b>
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - charging excessive remuneration / costs.	1	3	1	5
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence.	1	3	3	7
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix activity.	1	1	2	4
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	3	8	5	16
		CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg, poor realisation of assets).	5	8	7	20
		CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg.	2	5		7
		CCG - insolvency practitioner misconduct - favouring directors or related parties.	1	1	3	5
		CCG - insolvency practitioner misconduct - fraud.	1			1
		CCG - insolvency practitioner misconduct - inadequate investigations.		3	8	11
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.	3	3	7	13
	<b>Insolvency Practitioner Misconduct Total</b>		<b>18</b>	<b>35</b>	<b>36</b>	<b>89</b>
	Non-Insolvency Matters	Auditor breach report - going concern.	3		5	8
		Auditor breach report - non-compliance with accounting standards.	1		3	4
		Auditor breach report - qualified audit report.	2	3	7	12
		CCG - auditor misconduct.	4	3	7	14
		CCG - buybacks, selective capital reduction.	2			2
		CCG - carrying on business whilst unregistered.	9	6	2	17
		CCG - contractual issues.	73	77	58	208
		CCG - director disqualification.	7	14	6	27
		CCG - directors' duties.	26	34	33	93
		CCG - disclosure (prospectus, offer information statement - shares & debentures).	4	1	2	7
		CCG - EXAD assistance request (RATA, books & records).	94	175	151	420
		CCG - executive remuneration.	1			1
		CCG - faulty product / workmanship.	2		2	4
		CCG - fraud by officer / misappropriation of company funds.	9	5	5	19
		CCG - illegal fundraising - illegal offer of debentures without prospectus.		1		1



		CCG - illegal fundraising - illegal offer of securities without prospectus.	4	4	4	12
		CCG - internal dispute.	18	18	31	67
		CCG - late lodgement / non-lodgement of financial reports.	11	11	10	32
		CCG - lodging false or misleading documents.	19	14	16	49
		CCG - managing whilst disqualified.	14	22	20	56
		CCG - meetings of members - AGM, EGM.	4	8	8	20
		CCG - offences by officers (s471A, s590, s596).	1	4	1	6
		CCG - other corporations / corporate governance fraud.	8	11	6	25
		CCG - other corporations / corporate governance misconduct.	25	32	20	77
		CCG - other financial reporting.	9	6	7	22
		CCG - related party transactions - conflicts of interest.	3	4	5	12
		CCG - takeover.	3	3	3	9
		<b>Non-Insolvency Matters Total</b>	<b>356</b>	<b>456</b>	<b>412</b>	<b>1224</b>
		<b>Corporations / Corporate Governance Total</b>	<b>468</b>	<b>599</b>	<b>555</b>	<b>1622</b>
Financial Services / Retail Investors	Advisers	FSRI - advisers - conflict of interest.		1		1
		FSRI - advisers - dishonest conduct (licensee / authorised representative).	2	3	6	11
		FSRI - advisers - fraud.		1	2	3
		FSRI - advisers - licence obligations - s912A general obligations.	38	77	58	173
		FSRI - advisers - quality of advice.	8	8	13	29
		FSRI - advisers - supervision of authorised and other representatives.	7	7	4	18
		FSRI - disclosure - (FSG, SOA - advisers).		1	1	2
	<b>Advisers Total</b>		<b>55</b>	<b>98</b>	<b>84</b>	<b>237</b>
	Credit (ADI)	FSRI - credit (ADI) - advertising.		2	3	5
		FSRI - credit (ADI) - broker / introducer.		2		2
		FSRI - credit (ADI) - credit cards / store cards.	4	1	3	8
		FSRI - credit (ADI) - debt collection, default notices and recovery.	1		4	5
		FSRI - credit (ADI) - debtor harassment.	5	1	2	8
		FSRI - credit (ADI) - EDR / IDR.		2	1	3
		FSRI - credit (ADI) - fees and interest rates.	6	7	1	14
		FSRI - credit (ADI) - fraud.			1	1
		FSRI - credit (ADI) - hardship.	1	3	1	5
		FSRI - credit (ADI) - home loans.	5	2	3	10
		FSRI - credit (ADI) - investment loans.	1	1		2
		FSRI - credit (ADI) - licence obligations - s47 general obligations.	17	19	18	54
		FSRI - credit (ADI) - misleading or deceptive conduct.	4		1	5
		FSRI - credit (ADI) - other.	4	3	2	9
		FSRI - credit (ADI) - personal loans.	1		1	2

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	FSRI - credit (ADI) - responsible lending.		1	1	2
	FSRI - credit (ADI) - unconscionable conduct.	2	1	1	4
	FSRI - credit (ADI) - unlicensed conduct.		2	1	3
<b>Credit (ADI) Total</b>		<b>51</b>	<b>47</b>	<b>44</b>	<b>142</b>
<b>Credit (non-ADI)</b>	FSRI - credit (non-ADI) - advertising.	5	2	3	10
	FSRI - credit (non-ADI) - broker / introducer.	2	6	1	9
	FSRI - credit (non-ADI) - contracts - unjust / unfair / unconscionable.	2	6	1	9
	FSRI - credit (non-ADI) - credit cards / store cards.	1	2		3
	FSRI - credit (non-ADI) - debt collection, default notices and recovery.	4	8	13	25
	FSRI - credit (non-ADI) - debtor harassment.	17	13	8	38
	FSRI - credit (non-ADI) - EDR / IDR.	1	2	2	5
	FSRI - credit (non-ADI) - fees and interest rates.	1	2	4	7
	FSRI - credit (non-ADI) - fraud.	2	4	2	8
	FSRI - credit (non-ADI) - hardship.		2	1	3
	FSRI - credit (non-ADI) - home loans.	1	1	3	5
	FSRI - credit (non-ADI) - investment loans.	1	1	2	4
	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	107	93	124	324
	FSRI - credit (non-ADI) - loan refinancing or switching.	1	1		2
	FSRI - credit (non-ADI) - misleading or deceptive conduct.	7	12	8	27
	FSRI - credit (non-ADI) - other.	1	4	9	14
	FSRI - credit (non-ADI) - personal loans.		2	2	4
	FSRI - credit (non-ADI) - responsible lending.	3	3	4	10
	FSRI - credit (non-ADI) - short term / payday loans.	1			1
	FSRI - credit (non-ADI) - unconscionable conduct.	6	4	7	17
	FSRI - credit (non-ADI) - unlicensed conduct.	14	16	25	55
<b>Credit (non-ADI) Total</b>		<b>177</b>	<b>184</b>	<b>219</b>	<b>580</b>
<b>Deposit Takers</b>	FSRI - deposit takers - bank account.	3	1		4
	FSRI - deposit takers - term deposits.		2	1	3
<b>Deposit Takers Total</b>		<b>3</b>	<b>3</b>	<b>1</b>	<b>7</b>
<b>IDR/EDR Total</b>		<b>1</b>	<b>10</b>	<b>2</b>	<b>13</b>
<b>Indigenous Total</b>			<b>1</b>	<b>2</b>	<b>3</b>
<b>Insurance Total</b>		<b>14</b>	<b>11</b>	<b>9</b>	<b>34</b>
<b>Investment Banks</b>	FSRI - IB - contracts for difference (CFD).		1		1
	FSRI - IB - derivative.	1	1	3	5
	FSRI - IB - investment bank.		1		1
	FSRI - IB - unfair contract term.			1	1
<b>Investment Banks Total</b>		<b>1</b>	<b>3</b>	<b>4</b>	<b>8</b>
<b>Managed Investment Scheme</b>	FSRI - disclosure - (PDS - managed investment scheme).	1		1	2
	FSRI - managed investment scheme - compliance plan.	2	10	6	18

	FSRI - managed investment scheme - fees & charges.	1	1	6	8
	FSRI - managed investment scheme - fraud.			2	2
	FSRI - managed investment scheme - frozen fund.	7	2	4	13
	FSRI - managed investment scheme - member reporting.	1	2	2	5
	FSRI - managed investment scheme - other.	5	3	4	12
	FSRI - managed investment scheme - related party transactions.	1		1	2
	FSRI - managed investment scheme - takeover / control.		1	2	3
	FSRI - managed investment scheme - unfair contract term.			1	1
	FSRI - managed investment scheme - unit pricing.	6		1	7
<b>Managed Investment Scheme Total</b>		<b>24</b>	<b>19</b>	<b>30</b>	<b>73</b>
<b>Margin Lending Total</b>			<b>1</b>		<b>1</b>
<b>Misconduct</b>	FSRI - disclosure - (PDS - other).		2		2
	FSRI - misleading or deceptive conduct - (financial service or product).	22	13	18	53
	FSRI - unconscionable conduct - (financial service or product).	1	1		2
<b>Misconduct Total</b>		<b>23</b>	<b>16</b>	<b>18</b>	<b>57</b>
<b>Retail Investor</b>	FSRI - other financial services / retail investors - unfair contract term.		1	1	2
	FSRI - other financial services / retail investors fraud.	1	1	5	7
	FSRI - other financial services / retail investors misconduct.	10	12	19	41
<b>Retail Investor Total</b>		<b>11</b>	<b>14</b>	<b>25</b>	<b>50</b>
<b>Scam</b>	FSRI - scams - cold calling.	13	21	17	51
	FSRI - scams - fake credit / loan.			2	2
	FSRI - scams - fake debt invoices.	1	2		3
	FSRI - scams - identity theft.		3	3	6
	FSRI - scams - lottery.		2		2
	FSRI - scams - money transfer schemes (job opportunity).	2	2		4
	FSRI - scams - Nigerian.	4	1	6	11
	FSRI - scams - phishing.	4	1	5	10
	FSRI - sports arbitrage / gambling scheme.	14	11	10	35
<b>Scam Total</b>		<b>38</b>	<b>43</b>	<b>43</b>	<b>124</b>
<b>Superannuation</b>	FSRI - disclosure - (PDS - superannuation funds, member statements).	1	6	1	8
	FSRI - superannuation - fraud.	2	1	1	4
	FSRI - superannuation - illegal early access.	1	3		4
	FSRI - superannuation - other.	6	2	2	10
	FSRI - superannuation - performance of fund.	1	1	1	3
	FSRI - superannuation - unfair contract term.			1	1
<b>Superannuation Total</b>		<b>11</b>	<b>13</b>	<b>6</b>	<b>30</b>

## Misconduct & Breach Reporting

	Unregistered / Unlicensed	FSRI - providing a financial service without a licence.	28	28	46	102
		FSRI - unregistered managed investment scheme.	2	5	6	13
	Unregistered/Unlicensed Total		30	33	52	115
	Unsolicited Offer Total		2	2	2	6
	Wealth Creation Scheme Total				1	1
Financial Services / Retail Investors Total			441	498	542	1481

Market Integrity	Market Integrity	MI - continuous disclosure listed.	9	18	12	39
		MI - continuous disclosure unlisted.		1		1
		MI - director's interest notification.	4		1	5
		MI - insider trading.	8	6	13	27
		MI - market integrity rules.	2	5	2	9
		MI - market manipulation.	11	11	3	25
		MI - market participant / stockbroker misconduct.	1		1	2
		MI - misleading statements.	8	10	15	33
		MI - related party transaction - disclosure.	2		1	3
		MI - short selling.	1		1	2
		MI - substantial shareholding notification.	2	1	4	7
		Market Integrity Total			48	52
Registry Integrity	Registry Integrity	REG - address offence.	28	58	42	128
		REG - didn't consent to be a director.	3	5	1	9
		REG - no directors.	2	2	2	6
		REG - other registry fraud.	4	6	2	12
		REG - other.	17	13	16	46
		REG - request to halt deregistration.	1	2	1	4
Registry Integrity Total			55	86	64	205
Other	Other	AUSTRAC - suspect transaction report (sustr).	20	25	19	64
		Money laundering.	1	3	1	5
Other Total			21	28	20	69
Total			1033	1263	1234	3530

# Misconduct & Breach Reporting

## Risk & Trend Analysis - 1 April 2012 to 30 June 2012

This report contains a snapshot of the 3604 misconduct and breach reports that we received between 1 April 2012 and 30 Jun 2012.

Where necessary, data for:

- the current financial year-to-date,
- the July - September 2011 quarter,
- the October - December 2011 quarter,
- the January - March 2012 quarter,
- the April - June 2011 quarter, and
- the whole 2010-2011 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from April 2012 to June 2012, according to financial economy sphere.

**Table 1: Sphere analysis**

Keyword Category	2011-2012 Full Year	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011-2012 Apr - Jun	2011 - 2012 Apr - Jun Breakdown			2010-2011 Apr - Jun	2010-2011 Full Year
						Apr%	May%	Jun%		
<b>Total #</b>	<b>14414</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>3604</b>	<b>1086</b>	<b>1327</b>	<b>1191</b>	<b>3855</b>	<b>17099</b>
<b>Corporations/ Corporate Governance</b>										
Non-Insolvency Matters	36%	32%	38%	37%	39%	37%	40%	38%	36%	32%
Insolvency Matters*	8%	9%	8%	9%	7%	6%	7%	8%	8%	8%
<b>Financial Services/ Retail Investors<sup>#</sup></b>										
Non-Credit Matters	27%	33%	29%	21%	24%	25%	25%	22%	34%	34%
Credit Matters	16%	12%	15%	21%	15%	17%	15%	13%	11%	14%
<b>Market Integrity</b>	<b>6%</b>	<b>5%</b>	<b>4%</b>	<b>6%</b>	<b>7%</b>	<b>6%</b>	<b>5%</b>	<b>6%</b>	<b>4%</b>	<b>4%</b>
<b>Registry &amp; Licensing</b>	<b>5%</b>	<b>6%</b>	<b>5%</b>	<b>4%</b>	<b>6%</b>	<b>7%</b>	<b>6%</b>	<b>10%</b>	<b>5%</b>	<b>5%</b>
<b>Other</b>	<b>2%</b>	<b>3%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>2%</b>	<b>3%</b>	<b>2%</b>	<b>3%</b>
<b>Total %</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

<sup>#</sup> FSRI matters are separated into Credit Matters and Non-Credit Matters.

The trends worth noting in this data are:

- there was an increase in Non-Insolvency Matters in the Oct-Dec quarter, which has carried forward through to the present,
- the percentage of Non-Credit Matters received decreased throughout the first three quarters of the year, with a partial recovery in the current quarter,
- the percentage of Credit Matters increased substantially during the Jan - Mar quarter, but has now

- returned to normal, and
- iv. as a consequence of ASIC taking over responsibility for Business Names the number of Registry and Licensing matters increased substantially in June. We expect that this will carry forward.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between July 2011 and June 2012 and Figure 2 shows the breakdown for June 2012.

Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2011 - June 2012

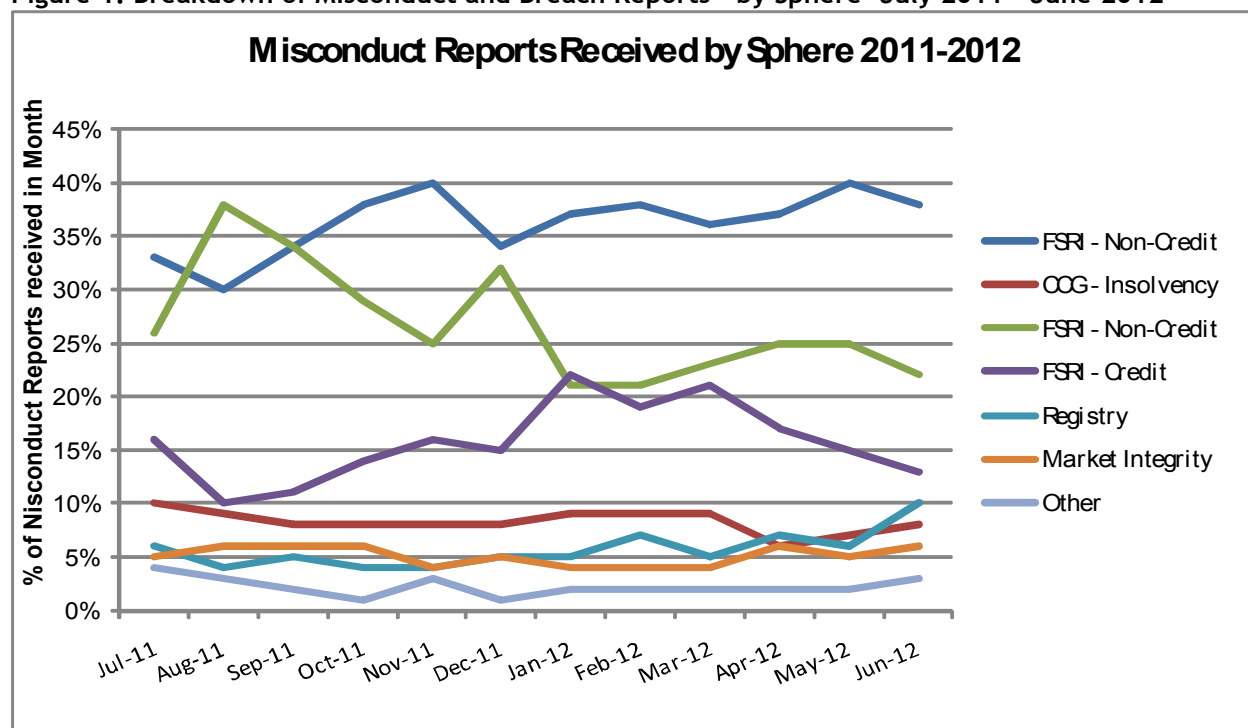
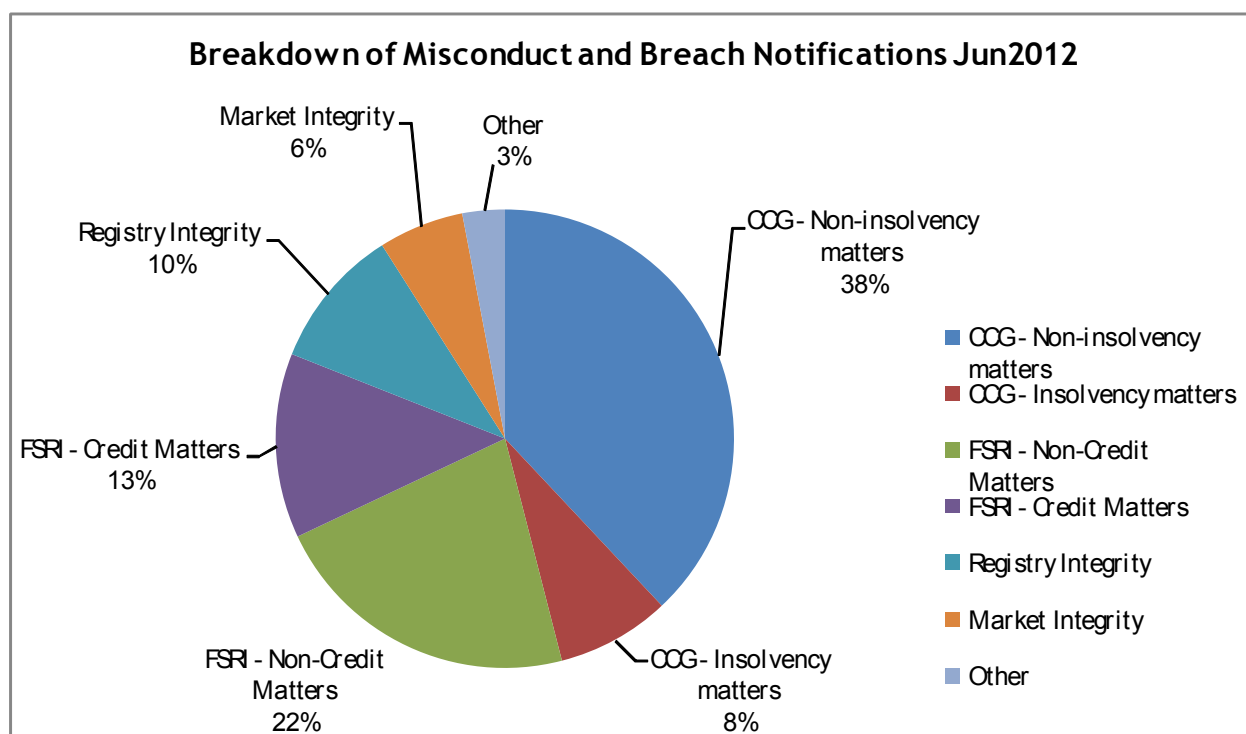


Figure 2: Breakdown of Misconduct and Breach Reports - June 2012



**Table 2: Corporations / Corporate Governance - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011-2012 Apr - Jun	2011 - 2012 Apr-Jun Breakdown			2010-2011 Apr - Jun	2010-2011 Full Year
						Apr%	May%	Jun%		
<b>Total #</b>	<b>14414</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>3604</b>	<b>1086</b>	<b>1327</b>	<b>1191</b>	<b>3855</b>	<b>17099</b>
CCG - EXAD assistance request (RATA, books & records).	10%	8%	8%	12%	12%	9%	13%	12%	9%	8%
CCG - insolvent trading - unlisted.	6%	7%	5%	7%	7%	4%	6%	6%	6%	5%
CCG - contractual issues.*	6%	5%	8%	6%	6%	6%	7%	7%	6%	5%
CCG - directors' duties.	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Insolvency Practitioner Misconduct	3%	3%	4%	2%	2%	4%	3%	3%	3%	2%

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the five key CCG issues have remained relatively stable since July 2010, with the exception of an increase in the percentage of Liquidator assistance matters received in the Jan-Mar and Apr-Jun quarters. There is typically an increase in these matters in the first part of the year, however, it is usually starting to return to normal by June.

The full list of issues for Apr to Jun 2012 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Key issues**

Keyword Category	2011-2012 YTD	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011-2012 Apr - Jun	2011 - 2012 Apr-Jun Breakdown	2010-2011 Apr - Jun	2010-2011 Full Year

## Misconduct & Breach Reporting

						Apr%	May%	Jun%		
<b>Total #</b>	<b>14414</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>3604</b>	<b>1086</b>	<b>1327</b>	<b>1191</b>	<b>3855</b>	<b>17099</b>
Credit - debtor harassment, fees and interest rates, other	15%	12%	15%	19%	15%	17%	15%	13%	11%	15%
Advisors - quality of advice, dishonest conduct, licence obligations	10%	11%	12%	7%	9%	11%	9%	7%	9%	9%
Unregistered managed investment scheme, providing a financial service without a licence	4%	6%	4%	3%	3%	3%	3%	4%	4%	3%
Scams	4%	4%	4%	3%	3%	2%	3%	4%	3%	4%
Managed investment scheme - general, frozen fund, disclosure (PDS)	4%	5%	3%	2%	4%	3%	5%	2%	13%	12%

The trends worth noting in this data are:

- the percentage of Credit Matters increased substantially during the Jan - Mar quarter, but has now returned to normal,
- The bottom four rows show the results for the top four Non-Credit Matters. The cumulative percentage of these rows for each quarter ( 28%, 25%, 17% and 20% respectively) highlights the decline in the percentage of these matters that we have received. This decline stabilised during the Apr-Jun quarter.
- The high value (13%) recorded for Managed Investment Schemes in Apr-Jun 2011, was the result of a single high volume matter. In the absence of that matter the results were within normal levels.

The full list of issues for April to June 2012 is detailed in Appendix A.

**Table 4: Market Integrity - Key issues**

Keyword Category	2011-2012 Full Year	2011-2012 Jul - Sept	2011-2012 Oct - Dec	2011-2012 Jan - Mar	2011-2012 Apr - Jun	2011 - 2012 Apr - Jun Breakdown			2010-2011 Apr - Jun	2010-2011 Full Year
						Apr%	May%	Jun%		
<b>Total #</b>	<b>14414</b>	<b>3882</b>	<b>3394</b>	<b>3534</b>	<b>3604</b>	<b>1086</b>	<b>1327</b>	<b>1191</b>	<b>3855</b>	<b>17099</b>
Market manipulation.	1%	1%	1%	1%	1%	<0.5%	1%	<0.5%	1%	1%
Insider trading.	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Continuous disclosure listed.	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Misleading statements.	1%	1%	1%	1%	1%	2%	1%	1%	<.5%	<.5%
Director's interest notification.	<.5%	1%	<.5%	<.5%	<.5%	1%	<0.5%	<0.5%	<.5%	<.5%

Table 4 clearly shows that there is very little variation in this sphere, with the same categories having occupied the top 5 positions since July 2010.

The full list of issues for April to June 2012 is detailed in Appendix A.



# Appendix A -Misconduct & Breach Reports Received Between January and March 2012

Misconduct & Breach reporting Reports Received between April and June 2012						
FE Sphere	Complainant Sub-Group	1ST Keyword	Apr	May	Jun	Total
Corporations / Corporate Governance	Insolvency Matters	CCG - insolvent trading - unlisted.	38	73	70	181
		CCG - avoiding employee entitlements.	10	12	13	35
		CCG - phoenix activity.	10	10	12	32
		CCG - insolvent trading - listed.	2	1	1	4
	Insolvency Matters Total		60	96	96	252
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg, poor realisation of assets).	13	14	8	35
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence.	8	8	3	19
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	12	4	3	19
		CCG - insolvency practitioner misconduct - inadequate investigations.	5	2	7	14
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.	5	3	2	10
		CCG - insolvency practitioner misconduct - charging excessive remuneration / costs.	2	1	4	7
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix activity.	3		3	6
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor meetings.	1		4	5
		CCG - insolvency practitioner misconduct - favouring directors or related parties.	1	1		2
	Insolvency Practitioner Misconduct Total		50	33	34	117
	Non-Insolvency Matters	CCG - EXAD assistance request (RATA, books & records).	96	168	147	411
		CCG - contractual issues.	69	85	86	240
		CCG - directors' duties.	33	47	30	110
		CCG - other corporations / corporate governance misconduct.	30	50	25	105
		CCG - internal dispute.	21	20	26	67
		CCG - late lodgement / non-lodgement of financial reports.	21	12	14	47
		CCG - managing whilst disqualified.	9	22	7	38
		CCG - lodging false or misleading documents.	13	12	12	37
		CCG - carrying on business whilst unregistered.	6	10	9	25
		CCG - director disqualification.	9	9	6	24
		CCG - meetings of members - AGM, EGM.	5	5	12	22
		CCG - other financial reporting.	6	8	6	20
		CCG - other corporations / corporate governance fraud.	5	6	8	19
		CCG - fraud by officer / misappropriation of company funds.	5	2	9	16

		Auditor breach report - qualified audit report.	3	9	2	14	
		CCG - disclosure (prospectus, offer information statement - shares & debentures).	1	7	5	13	
		CCG - illegal fundraising - illegal offer of securities without prospectus.	4	8		12	
		Auditor breach report - going concern.	6	1	2	9	
		Auditor breach report - non-compliance with accounting standards.	4	1	2	7	
		CCG - auditor misconduct.		4	3	7	
		CCG - illegal fundraising - illegal offer of debentures without prospectus.	1	1	5	7	
		CCG - buybacks, selective capital reduction.	1	2	2	5	
		CCG - offences by officers (s471A, s590, s596).	3	2		5	
		CCG - related party transactions - conflicts of interest.	3	2		5	
		CCG - faulty product / workmanship.	1	2	1	4	
		CCG - takeover.	2	1	1	4	
		CCG - executive remuneration.		2		2	
		CCG - meetings of members - proxy forms.		1	1	2	
		CCG - schemes of arrangement.		1		1	
	Non-Insolvency Matters Total			357	500	421	1278
Corporations / Corporate Governance Total			467	629	551	1647	
Financial Services / Retail Investors	Advisers	FSRI - advisers - licence obligations - s912A general obligations.	61	89	54	204	
		FSRI - advisers - quality of advice.	27	6	7	40	
		FSRI - advisers - supervision of authorised and other representatives.	16	8	8	32	
		FSRI - advisers - dishonest conduct (licensee / authorised representative).	5	5	7	17	
		FSRI - advisers - fraud.	3	3	1	7	
		FSRI - advisers - conflict of interest.		4		4	
		FSRI - disclosure - (FSG, SOA - advisers).	1		2	3	
		FSRI - advisers - fees and charges / commissions.			1	1	
	Advisers Total			113	115	80	308
	Credit (ADI)	FSRI - credit (ADI) - licence obligations - s47 general obligations.	13	9	1	23	
		FSRI - credit (ADI) - debtor harassment.	3	6	5	14	
		FSRI - credit (ADI) - debt collection, default notices and recovery.	2	5	3	10	
		FSRI - credit (ADI) - fees and interest rates.	1	3	6	10	
		FSRI - credit (ADI) - credit cards / store cards.	4	2	3	9	
		FSRI - credit (ADI) - EDR / IDR.		3	4	7	
		FSRI - credit (ADI) - other.	2		3	5	
		FSRI - credit (ADI) - broker / introducer.	1	3		4	
		FSRI - credit (ADI) - hardship.		4		4	
		FSRI - credit (ADI) - home loans.	1	1	2	4	
FSRI - credit (ADI) - misleading or deceptive conduct.			3	1	4		

## Misconduct & Breach Reporting

	FSRI - credit (ADI) - unlicensed conduct.	2	1		3
	FSRI - credit (ADI) - advertising.			2	2
	FSRI - credit (ADI) - contracts - unjust / unfair / unconscionable.	1		1	2
	FSRI - credit (ADI) - responsible lending.		1	1	2
	FSRI - credit (ADI) - unconscionable conduct.	1	1		2
	FSRI - credit (ADI) - fraud.			1	1
	FSRI - credit (ADI) - loan refinancing or switching.			1	1
	FSRI - credit (ADI) - personal loans.			1	1
	FSRI - credit (ADI) - unsolicited credit or limit increase.	1			1
<b>Credit (ADI) Total</b>		<b>32</b>	<b>42</b>	<b>35</b>	<b>109</b>
<b>Credit (non-ADI)</b>	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	77	71	25	173
	FSRI - credit (non-ADI) - unlicensed conduct.	16	24	11	51
	FSRI - credit (non-ADI) - other.	27		4	31
	FSRI - credit (non-ADI) - debt collection, default notices and recovery.	7	12	8	27
	FSRI - credit (non-ADI) - debtor harassment.	4	6	13	23
	FSRI - credit (non-ADI) - misleading or deceptive conduct.	7	8	5	20
	FSRI - credit (non-ADI) - advertising.	4	4	10	18
	FSRI - credit (non-ADI) - responsible lending.	5	6	5	16
	FSRI - credit (non-ADI) - contracts - unjust / unfair / unconscionable.	6	3	4	13
	FSRI - credit (non-ADI) - unconscionable conduct.	3	4	6	13
	FSRI - credit (non-ADI) - fees and interest rates.	1	4	6	11
	FSRI - credit (non-ADI) - personal loans.	1	1	5	7
	FSRI - credit (non-ADI) - EDR / IDR.		3	1	4
	FSRI - credit (non-ADI) - hardship.		2	2	4
	FSRI - credit (non-ADI) - short term / payday loans.		1	3	4
	FSRI - credit (non-ADI) - broker / introducer.	1		2	3
	FSRI - credit (non-ADI) - fraud.	1	1	1	3
	FSRI - credit (non-ADI) - investment loans.		1	2	3
	FSRI - credit (non-ADI) - credit cards / store cards.		1	1	2
	FSRI - credit (non-ADI) - home loans.		2		2
	FSRI - credit (non-ADI) - loan refinancing or switching.			1	1
	FSRI - credit (non-ADI) - reverse mortgage.			1	1
<b>Credit (non-ADI) Total</b>		<b>160</b>	<b>154</b>	<b>116</b>	<b>430</b>
<b>Deposit Takers</b>	FSRI - deposit takers - bank account.	3	3	3	9
	FSRI - deposit takers - term deposits.	4	1	1	6
	FSRI - deposit takers - first home saver accounts.		1		1
<b>Deposit Takers Total</b>		<b>7</b>	<b>5</b>	<b>4</b>	<b>16</b>
<b>IDR/EDR Total</b>		<b>6</b>	<b>6</b>	<b>8</b>	<b>20</b>

<b>Indigenous Total</b>			<b>1</b>	<b>1</b>	<b>2</b>
<b>Insurance Total</b>		<b>7</b>	<b>11</b>	<b>14</b>	<b>32</b>
<b>Investment Banks</b>	FSRI - IB - contracts for difference (CFD).	2	1		3
	FSRI - IB - derivative.			1	1
	FSRI - IB - investment bank.		1		1
<b>Investment Banks Total</b>		<b>2</b>	<b>2</b>	<b>1</b>	<b>5</b>
<b>Managed Investment Scheme</b>	FSRI - managed investment scheme - member reporting.	1	35	5	41
	FSRI - managed investment scheme - compliance plan.	18	12	1	31
	FSRI - managed investment scheme - other.	8	5	10	23
	FSRI - managed investment scheme - frozen fund.	3	8	2	13
	FSRI - managed investment scheme - unit pricing.	4	5	3	12
	FSRI - disclosure - (PDS - managed investment scheme).	3	1	1	5
	FSRI - managed investment scheme - fees & charges.	1		1	2
	FSRI - managed investment scheme - takeover / control.	1	1		2
	FSRI - managed investment scheme - unfair contract term.		2		2
	FSRI - managed investment scheme - fraud.		1		1
	FSRI - managed investment scheme - related party transactions.		1		1
	FSRI - managed investment scheme.			1	1
<b>Managed Investment Scheme Total</b>		<b>39</b>	<b>71</b>	<b>24</b>	<b>134</b>
<b>Margin Lending Total</b>				<b>1</b>	<b>1</b>
<b>Misconduct</b>	FSRI - misleading or deceptive conduct - (financial service or product).	15	14	15	44
	FSRI - disclosure - (PDS - other).	1		2	3
	FSRI - unconscionable conduct - (financial service or product).	1	1		2
<b>Misconduct Total</b>		<b>17</b>	<b>15</b>	<b>17</b>	<b>49</b>
<b>Retail Investor</b>	FSRI - other financial services / retail investors misconduct.	17	9	7	33
	FSRI - other financial services / retail investors - unfair contract term.	1		1	2
	FSRI - other financial services / retail investors fraud.	1	1		2
<b>Retail Investor Total</b>		<b>19</b>	<b>10</b>	<b>8</b>	<b>37</b>
<b>Scam</b>	FSRI - scams - cold calling.	6	19	15	40
	FSRI - sports arbitrage / gambling scheme.	8	6	12	26
	FSRI - scams - Nigerian.	3	3	10	16
	FSRI - scams - money transfer schemes (job opportunity).	2	3	2	7
	FSRI - scams - fake debt invoices.		5	1	6
	FSRI - scams - lottery.	1	1	2	4
	FSRI - scams - phishing.	2	1	1	4
	FSRI - scams - fake credit / loan.	1	1	1	3



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		FSRI - scams - identity theft.	1		2	3
	<b>Scam Total</b>		<b>24</b>	<b>39</b>	<b>46</b>	<b>109</b>
	<b>Superannuation</b>	FSRI - superannuation - other.		7	4	11
		FSRI - superannuation - fees & commissions.	4	1	2	7
		FSRI - disclosure - (PDS - superannuation funds, member statements).		1	1	2
		FSRI - superannuation - fraud.		1		1
		FSRI - superannuation - illegal early access.			1	1
		FSRI - superannuation - SMSF illegal scheme promotion.		1		1
	<b>Superannuation Total</b>		<b>4</b>	<b>11</b>	<b>8</b>	<b>23</b>
	<b>Unregistered / Unlicensed</b>	FSRI - providing a financial service without a licence.	24	38	48	110
		FSRI - unregistered managed investment scheme.	9	10	4	23
	<b>Unregistered / Unlicensed Total</b>		<b>33</b>	<b>48</b>	<b>52</b>	<b>133</b>
	<b>Unsolicited Offer Total</b>		<b>1</b>	<b>3</b>	<b>1</b>	<b>5</b>
	<b>Wealth Creation Scheme Total</b>				<b>1</b>	<b>1</b>
<b>Financial Services / Retail Investors Total</b>			<b>464</b>	<b>533</b>	<b>417</b>	<b>1414</b>
<b>Market Integrity</b>	<b>Market Integrity</b>	MI - continuous disclosure listed.	14	19	14	47
		MI - misleading statements.	20	16	11	47
		MI - market integrity rules.	11	8	25	44
		MI - insider trading.	9	10	6	25
		MI - market manipulation.	5	15	5	25
		MI - director's interest notification.	7		1	8
		MI - substantial shareholding notification.	1	1	5	7
		MI - related party transaction - disclosure.	3	1	1	5
		MI - short selling.	1	2	2	5
		MI - market participant / stockbroker misconduct.	1		2	3
		MI - market operator misconduct.		1	1	2
<b>Market Integrity Total</b>			<b>72</b>	<b>73</b>	<b>73</b>	<b>218</b>
<b>Registry Integrity</b>	<b>Registry Integrity</b>	REG - address offence.	34	37	26	97
		REG - business names.	3	14	59	76
		REG - other.	19	17	20	56
		REG - other registry fraud.	4	2	5	11
		REG - no directors.		4	6	10
		REG - didn't consent to be a director.	9			9
		REG - request to halt deregistration.	2	2	1	5
<b>Registry Integrity Total</b>			<b>71</b>	<b>76</b>	<b>117</b>	<b>264</b>
<b>Other</b>	<b>Other</b>	AUSTRAC – suspicious transaction report..	8	11	31	50
		Other	1	3	2	6
		Administrative Law - s127 ASIC Act - request for information.	1	1		2
		Money laundering.	2			2
		Breach Report - professional indemnity.		1		1
<b>Other Total</b>			<b>12</b>	<b>16</b>	<b>33</b>	<b>61</b>
<b>Total</b>			<b>1086</b>	<b>1327</b>	<b>1191</b>	<b>3604</b>

# Misconduct & Breach Reporting

## *Risk & Trend Analysis - 1 July 2012 to 30 September 2012*

This report contains a snapshot of the 3847 misconduct and breach reports that we received between 1 July 2012 and 30 September 2012.

Where necessary, data for:

- the July - September 2012 quarter,
- the current financial year-to-date,
- the July 2011 - September 2011 quarter, and
- the whole 2010-2011 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from July 2012 to September 2012, according to financial economy sphere. Data for the previous financial year, and for the same quarter last year are also provided.

**Table 1: Sphere analysis**

Keyword Category	2012-2013	2012-2013	2012-2013	2012-2013	2012-2013	2012 - 2013 Apr - Jun Breakdown			2011-2012	2011-2012
	Full Year	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul%	Aug%	Sept%	Full Year	Jul - Sept
<b>Total #</b>	<b>3847</b>	<b>3847</b>				<b>1360</b>	<b>1339</b>	<b>1148</b>	<b>14365</b>	<b>3834</b>
<b>Corporations/ Corporate Governance</b>										
Non-Insolvency Matters	32%	32%				29%	35%	33%	32%	36%
Insolvency Matters*	7%	7%				6%	8%	7%	8%	8%
<b>Financial Services/ Retail Investors<sup>#</sup></b>										
Non-Credit Matters	28%	28%				35%	24%	24%	34%	34%
Credit Matters	16%	16%				14%	17%	17%	14%	11%
<b>Market Integrity</b>	<b>6%</b>	<b>6%</b>				<b>6%</b>	<b>5%</b>	<b>6%</b>	<b>4%</b>	<b>4%</b>
<b>Registry Integrity</b>	<b>9%</b>	<b>9%</b>				<b>8%</b>	<b>9%</b>	<b>10%</b>	<b>5%</b>	<b>5%</b>
<b>Other</b>	<b>2%</b>	<b>2%</b>				<b>2%</b>	<b>2%</b>	<b>3%</b>	<b>3%</b>	<b>2%</b>
<b>Total %</b>	<b>100%</b>	<b>100%</b>				<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

<sup>#</sup> FSRI matters are separated into Credit Matters and Non-Credit Matters.

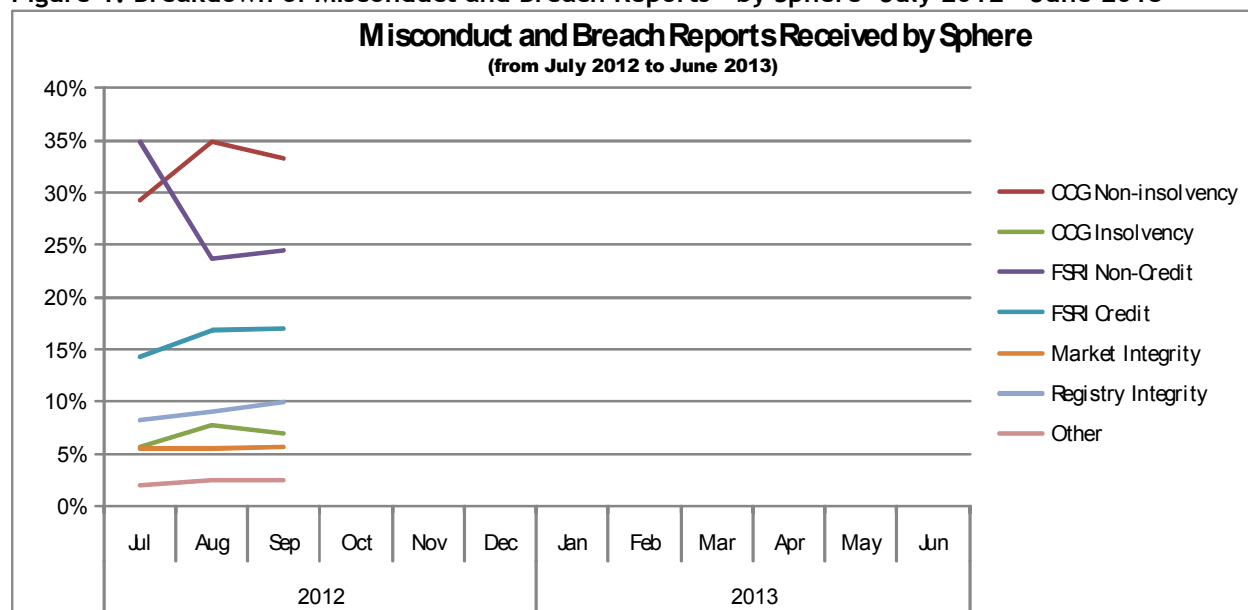
Overall there are two things worth commenting on from Table 1:

- There was a spike in the number of FSRI Non-Credit Matters received in July, due to 3 high volume matters, accounting for 169 misconduct and breach reports in addition to the normal workload. In the absence of these 169 matters, the CCG Insolvency Matters percentage would have been about 34%, the FSRI Non-Credit Matters percentage would have been about 26% and the FSRI Credit Matters percentage would have been about 16%. Overall, this would have meant that the July - September 2012 quarter was essentially stable throughout the quarter,

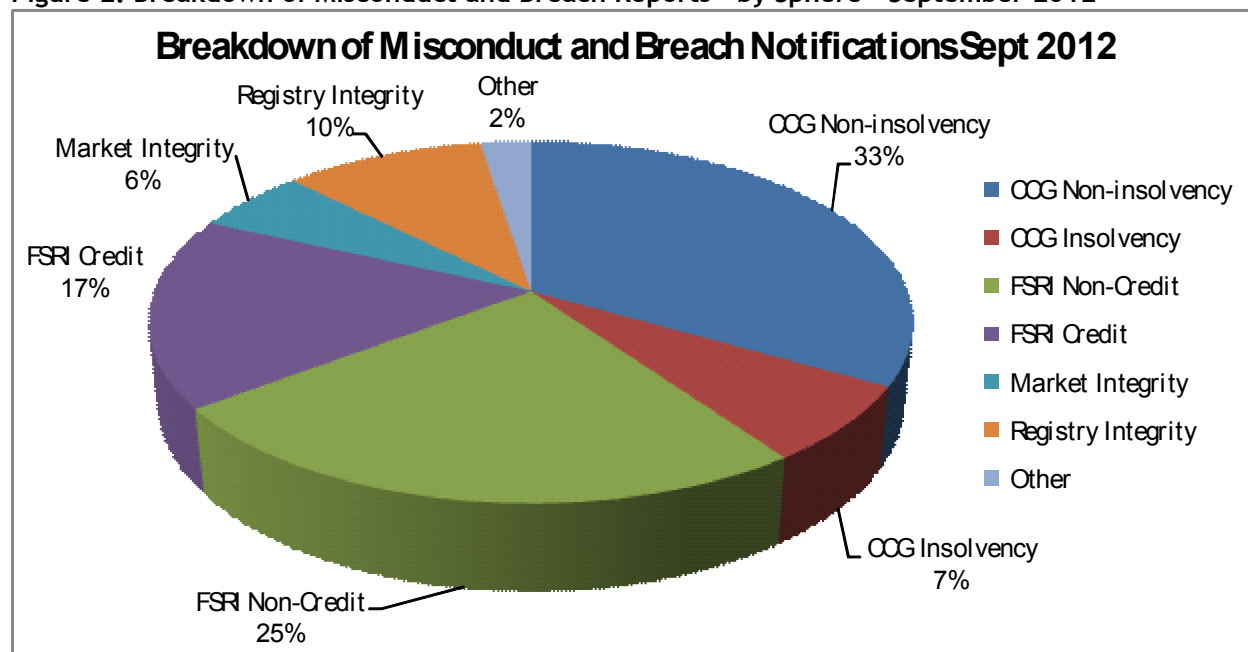
- with the exception of Registry and Licensing as summarised in the next item.
- ii. As a consequence of ASIC taking over the registration of Business Names from the States in June 2012, there has been a substantial increase in reports concerning Business Names. This is the cause for the substantial increase in Registry and Licensing Matters this quarter.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between July 2011 and September 2012 and Figure 2 shows the breakdown for September 2012.

**Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2012 - June 2013**



**Figure 2: Breakdown of Misconduct and Breach Reports - by Sphere - September 2012**



**Table 2: Corporations / Corporate Governance - Top 5 issues for each time period, sorted by current quarter**

Keyword Category	2012-2013	2012-2013	2012-2013	2012-2013	2012-2013	2012 - 2013 Apr - Jun Breakdown			2011-2012	2011-2012
	Full Year	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul%	Aug%	Sept%	Full Year	Jul - Sept
<b>Total #</b>	<b>3847</b>	<b>3847</b>				<b>1360</b>	<b>1339</b>	<b>1148</b>	<b>14365</b>	<b>3834</b>
EXAD assistance request (RATA, books & records).	9%	9%				9%	11%	7%	10%	8%
Contractual issues.*	8%	8%				7%	8%	9%	6%	5%
Insolvent trading - unlisted.	5%	5%				4%	5%	5%	6%	7%
Insolvency Practitioner Misconduct	2%	2%				6%	3%		3%	3%
Internal Dispute	2%	2%				2%		3%		
Directors' duties.	2%	2%						3%	3%	3%
Other Corporations / Corporate governance misconduct							2%			

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the top 5 CCG issues have remained relatively stable since July 2011. Insolvency Practitioner misconduct reports were high in the previous quarter (not shown) but appear to be returning to normal levels.

The full list of issues for July to September 2012 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Top 5 issues for each time period, sorted by current quarter**

Keyword Category	2012-2013	2012-2013	2012-2013	2012-2013	2012-2013	2012 - 2013 Apr - Jun Breakdown			2011-2012	2011-2012
	Full Year	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul%	Aug%	Sept%	Full Year	Jul - Sept
<b>Total #</b>	<b>3847</b>	<b>3847</b>				<b>1360</b>	<b>1339</b>	<b>1148</b>	<b>14365</b>	<b>3834</b>
Credit - debtor harassment, fees and interest rates, other	16%	16%				14%	17%	17%	15%	12%
Unregistered managed investment scheme, providing a financial service without a licence	7%	7%				7%	8%	7%	5%	7%
Managed investment scheme - general, frozen fund, disclosure (PDS)	6%	6%				13%	2%	2%	4%	5%
Scams	3%	3%				3%	3%	4%	4%	4%
Advisers - quality of advice, dishonest conduct, licence obligations	2%	2%				3%	2%		10%	11%
Superannuation								2%		

Table 3 shows that the top 5 FSRI issues have remained relatively stable since July 2011. As previously mentioned, there was a large number of high volume reports received in July, which were mainly related to a Managed Investment Scheme - this explains the high percentile result (13%) for this category in July.

The full list of issues for July to September 2012 is detailed in Appendix A.

**Table 4: Market Integrity - Top 5 issues for each time period, sorted by current quarter**

Keyword Category	2012-2013 Full Year	2012-2013 Jul - Sept	2012-2013 Oct - Dec	2012-2013 Jan - Mar	2012-2013 Apr - Jun	2012 - 2013 Apr - Jun Breakdown			2011-2012 Full Year	2011-2012 Jul - Sept
						Jul%	Aug%	Sept%		
<b>Total #</b>	<b>3847</b>	<b>3847</b>				1360	1339	1148	14365	3834
<b>Market manipulation.</b>	1%	1%				2%	1%	1%	1%	1%
<b>Insider trading.</b>	1%	1%				1%	1%	1%	1%	1%
<b>Continuous disclosure listed.</b>	1%	1%				1%	1%	1%	1%	1%
<b>Misleading statements.</b>	1%	1%				1%	1%	1%	1%	1%
<b>Market integrity rules</b>	1%	1%					2%	1%	1%	
<b>Director's interest notification.</b>						1%				1%

Table 4 clearly shows that there is very little variation in this sphere, with mostly the same 5 matters occupying the top positions since July 2011.

The full list of issues for July to September 2012 is detailed in Appendix A.

## Appendix A

Misconduct & Breach reporting Reports Received between July and September 2012						
FE Sphere	Sub-Group	First Keyword	Jul	Aug	Sep	Grand Total
Corporations / Corporate Governance	Insolvency	CCG - avoiding employee entitlements.	5	11	8	24
		CCG - insolvent trading - listed.	3	2	1	6
		CCG - insolvent trading - unlisted.	90	93	69	252
		CCG - phoenix activity.	13	19	15	47
	Insolvency Total		111	125	93	329
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - charging excessive remuneration / costs.	3	5	2	10
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence.	7	1	2	10
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix activity.	1		1	2
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	8	4	3	15
		CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg, poor realisation of assets).	10	6	16	32
		CCG - insolvency practitioner misconduct - favouring directors or related parties.	7	6	3	16
		CCG - insolvency practitioner misconduct - fraud.	2		2	4
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor meetings.		1	1	2
		CCG - insolvency practitioner misconduct - inadequate investigations.	2	3	4	9
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.	7	6	5	18
		CCG - insolvency practitioner misconduct - other.		1		1
	Insolvency Practitioner Misconduct Total		47	33	39	119
	Non-Insolvency	Auditor breach report - going concern.		1	3	4
		Auditor breach report - non-compliance with accounting standards.	1	5		6
		Auditor breach report - qualified audit report.	1	13	1	15
		CCG - auditor misconduct.	5	3	2	10
		CCG - buybacks, selective capital reduction.	1	3	3	7
		CCG - carrying on business whilst unregistered.	11	7	10	28
		CCG - contractual issues.	66	61	76	203
		CCG - director disqualification.	4	5	11	20
		CCG - directors' duties.	41	34	27	102
		CCG - disclosure (prospectus, offer information statement - shares & debentures).	2	5	2	9
		CCG - EXAD assistance request (RATA, books & records).	96	109	102	307

		CCG - executive remuneration.			1	1
		CCG - faulty product / workmanship.	5	1	1	7
		CCG - fraud by officer / misappropriation of company funds.	9	8	14	31
		CCG - illegal fundraising - illegal offer of debentures without prospectus.	1		1	2
		CCG - illegal fundraising - illegal offer of securities without prospectus.	6	2	7	15
		CCG - internal dispute.	26	36	30	92
		CCG - late lodgement / non-lodgement of financial reports.	11	9	12	32
		CCG - lodging false or misleading documents.	17	17	17	51
		CCG - managing whilst disqualified.	12	17	14	43
		CCG - meetings of members - AGM, EGM.	2	25	12	39
		CCG - offences by officers (s471A, s590, s596).	2	1	1	4
		CCG - other corporations / corporate governance fraud.	6	4	5	15
		CCG - other corporations / corporate governance misconduct.	39	20	22	81
		CCG - other financial reporting.	6	5	7	18
		CCG - related party transactions - conflicts of interest.	3	3		6
		CCG - schemes of arrangement.	2	1	1	4
		CCG - takeover.	1	2	1	4
		<b>Non-Insolvency Total</b>	<b>376</b>	<b>397</b>	<b>383</b>	<b>1156</b>
		<b>Corporations / Corporate Governance Total</b>	<b>534</b>	<b>555</b>	<b>515</b>	<b>1604</b>
<b>Financial Services / Retail Investors</b>	<b>Advisers</b>	FSRI - advisers - conflict of interest.		1		1
		FSRI - advisers - dishonest conduct (licensee / authorised representative).	6	6	62	74
		FSRI - advisers - fraud.	1	1	2	4
		FSRI - advisers - licence obligations - s912A general obligations.	96	104	77	277
		FSRI - advisers - quality of advice.	7	11	6	24
		FSRI - advisers - supervision of authorised and other representatives.	16	13	12	41
		FSRI - disclosure - (FSG, SOA - advisers).	1	1	3	5
	<b>Advisers Total</b>		<b>127</b>	<b>137</b>	<b>162</b>	<b>426</b>
	<b>Credit (ADI)</b>	FSRI - credit (ADI) - advertising.		5		5
		FSRI - credit (ADI) - contracts - unjust / unfair / unconscionable.		1		1
		FSRI - credit (ADI) - credit cards / store cards.	1	4	3	8
		FSRI - credit (ADI) - debt collection, default notices and recovery.	5	8	3	16
		FSRI - credit (ADI) - EDR / IDR.	1			1
		FSRI - credit (ADI) - fees and interest rates.		3	2	5
		FSRI - credit (ADI) - hardship.	3	4	1	8
		FSRI - credit (ADI) - home loans.	1	2	1	4
		FSRI - credit (ADI) - investment loans.	2	1	2	5



	FSRI - credit (ADI) - licence obligations - s47 general obligations.	2	3	4	9
	FSRI - credit (ADI) - loan refinancing or switching.	1			1
	FSRI - credit (ADI) - misleading or deceptive conduct.	3	2	1	6
	FSRI - credit (ADI) - other.		4	1	5
	FSRI - credit (ADI) - personal loans.	1		1	2
	FSRI - credit (ADI) - responsible lending.	1	1		2
	FSRI - credit (ADI) - unconscionable conduct.	4	2	4	10
	FSRI - credit (ADI) - unlicensed conduct.	1	1	5	7
	FSRI - credit (ADI) - unsolicited credit or limit increase.	1			1
<b>Credit (ADI) Total</b>		<b>27</b>	<b>41</b>	<b>28</b>	<b>96</b>
<b>Credit (non-ADI)</b>	FSRI - credit (non-ADI) - advertising.	2	5		7
	FSRI - credit (non-ADI) - broker / introducer.	1	2	2	5
	FSRI - credit (non-ADI) - contracts - unjust / unfair / unconscionable.	2	3	2	7
	FSRI - credit (non-ADI) - credit cards / store cards.	4	1	2	7
	FSRI - credit (non-ADI) - debt collection, default notices and recovery.	23	21	27	71
	FSRI - credit (non-ADI) - EDR / IDR.	2	3	2	7
	FSRI - credit (non-ADI) - fees and interest rates.	4	2	5	11
	FSRI - credit (non-ADI) - fraud.	6	2		8
	FSRI - credit (non-ADI) - hardship.	1		4	5
	FSRI - credit (non-ADI) - home loans.	1			1
	FSRI - credit (non-ADI) - investment loans.		2	1	3
	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	8	19	20	47
	FSRI - credit (non-ADI) - loan refinancing or switching.	2		1	3
	FSRI - credit (non-ADI) - misleading or deceptive conduct.	5	9	10	24
	FSRI - credit (non-ADI) - other.	3	1	1	5
	FSRI - credit (non-ADI) - personal loans.		3	2	5
	FSRI - credit (non-ADI) - responsible lending.	6	1	2	9
	FSRI - credit (non-ADI) - short term / payday loans.	1	1		2
	FSRI - credit (non-ADI) - unconscionable conduct.	9	6	4	19
	FSRI - credit (non-ADI) - unfair contract term.			1	1
	FSRI - credit (non-ADI) - unlicensed conduct.	70	21	25	116
	FSRI - credit (non-ADI) - unsolicited credit or limit increase.		1		1
<b>Credit (non-ADI) Total</b>		<b>150</b>	<b>103</b>	<b>111</b>	<b>364</b>
<b>Deposit Takers</b>	FSRI - deposit takers - bank account.	4	4	4	12
	FSRI - deposit takers - unfair contract term.			1	1
<b>Deposit Takers Total</b>		<b>4</b>	<b>4</b>	<b>5</b>	<b>13</b>
<b>General</b>	FSRI - complaint about IDR / EDR.	17	6	2	25

	FSRI - disclosure - (PDS - other).	1	1	2	4
	FSRI - disclosure - unfair contract term.			1	1
	FSRI - indigenous - financial services.	1			1
	FSRI - misleading or deceptive conduct - (financial service or product).	11	16	19	46
	FSRI - other financial services / retail investors - unfair contract term.		2		2
	FSRI - other financial services / retail investors fraud.	3	5	3	11
	FSRI - other financial services / retail investors misconduct.	7	11	10	28
	FSRI - unconscionable conduct - (financial service or product).	2	2	1	5
	FSRI - wealth creation seminar.		2		2
<b>General Total</b>		<b>42</b>	<b>45</b>	<b>38</b>	<b>125</b>
<b>Insurance</b>	FSRI - disclosure - (PDS - Insurance).	1	2		3
	FSRI - insurance.	9	12	22	43
<b>Insurance Total</b>		<b>10</b>	<b>14</b>	<b>22</b>	<b>46</b>
<b>Licensed Trustee Company Total</b>		<b>2</b>			<b>2</b>
<b>Managed Investment Scheme</b>	FSRI - disclosure - (PDS - managed investment scheme).	1	1	2	4
	FSRI - managed investment scheme - compliance plan.	5	8	5	18
	FSRI - managed investment scheme - fees & charges.	1	1	1	3
	FSRI - managed investment scheme - fraud.	4	1	1	6
	FSRI - managed investment scheme - frozen fund.	9	9	5	23
	FSRI - managed investment scheme - member reporting.	3	2	5	10
	FSRI - managed investment scheme - other.	6	10	3	19
	FSRI - managed investment scheme - related party transactions.	2	120	1	123
	FSRI - managed investment scheme - unit pricing.		1	2	3
<b>Managed Investment Scheme Total</b>		<b>31</b>	<b>153</b>	<b>25</b>	<b>209</b>
<b>Margin Lending Total</b>				<b>1</b>	<b>1</b>
<b>Scams</b>	FSRI - scams - cold calling.	26	22	34	82
	FSRI - scams - fake debt invoices.	2	3	3	8
	FSRI - scams - identity theft.	2	3	2	7
	FSRI - scams - lottery.	2		2	4
	FSRI - scams - money transfer schemes (job opportunity).	4	4	1	9
	FSRI - scams - Nigerian.	3	2		5
	FSRI - scams - phishing.	3	6	5	14
	FSRI - sports arbitrage / gambling scheme.	14	7	12	33
<b>Scams Total</b>		<b>56</b>	<b>47</b>	<b>59</b>	<b>162</b>
<b>Superannuation</b>	FSRI - disclosure - (PDS - superannuation funds, member statements).	1		6	7
	FSRI - superannuation - fees & commissions.	1	2		3

		FSRI - superannuation - fraud.	1	1		2
		FSRI - superannuation - illegal early access.	2		2	4
		FSRI - superannuation - other.	4	4	3	11
		FSRI - superannuation - performance of fund.			1	1
	Superannuation Total		9	7	12	28
	Unlicensed / Unregistered	FSRI - providing a financial service without a licence.	41	103	86	230
		FSRI - unregistered managed investment scheme.	4	13	10	27
	Unlicensed / Unregistered Total		45	116	96	257
	Unsolicited Offer Total		2	2	4	8
Financial Services / Retail Investors Total		505	669	563	1737	
Market Integrity	Market Integrity	MI - continuous disclosure listed.	15	14	15	44
		MI - continuous disclosure unlisted.			1	1
		MI - contracts for difference (CFD).			1	1
		MI - director's interest notification.		18	4	22
		MI - insider trading.	18	27	17	62
		MI - market integrity rules.	4	5	3	12
		MI - market manipulation.	5	16	20	41
		MI - market operator misconduct.		1	3	4
		MI - market participant / stockbroker misconduct.	2		3	5
		MI - misleading statements.	12	7	11	30
		MI - related party transaction - disclosure.	1	1		2
		MI - substantial shareholding notification.	3	1	1	5
Market Integrity Total		60	90	79	229	
Registry Integrity	Registry Integrity	REG - address offence.	38	39	34	111
		REG - didn't consent to be a director.		2	2	4
		REG - no directors.	4		2	6
		REG - other registry fraud.	5	1	2	8
		REG - other.	21	12	20	53
		REG - request to halt deregistration.	2	1	2	5
Registry Integrity Total		70	55	62	187	
Other	Other	Administrative Law - s127 ASIC Act - request for information.			1	1
		Administrative Law - s127 ASIC Act - unsolicited release.		1		1
		ASIC - complaint about ASIC.			1	1
		AUSTRAC - suspect transaction report (sustr).	46	13	13	72
		Law reform.		1		1
		Suspicious international capital flow.		1		1
Other Total		46	16	15	77	
Grand Total		1215	1385	1234	3834	

# Misconduct & Breach Reporting

## *Risk & Trend Analysis - 1 October 2012 to 31 December 2012*

This report contains a snapshot of the 3113 misconduct and breach reports received between 1 October 2012 and 31 December 2012.

Where necessary, data for:

- the current financial year to date,
- the October - December 2012 quarter,
- the October 2011 - December 2011 quarter,
- the 2010-2011 financial year to date (ie July 2011 - December 2011), and
- the full 2010-2011 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from October to December 2012, according to financial economy sphere. Data for the current financial year, current quarter and current month are highlighted in bold print.

**Table 1: Sphere analysis**

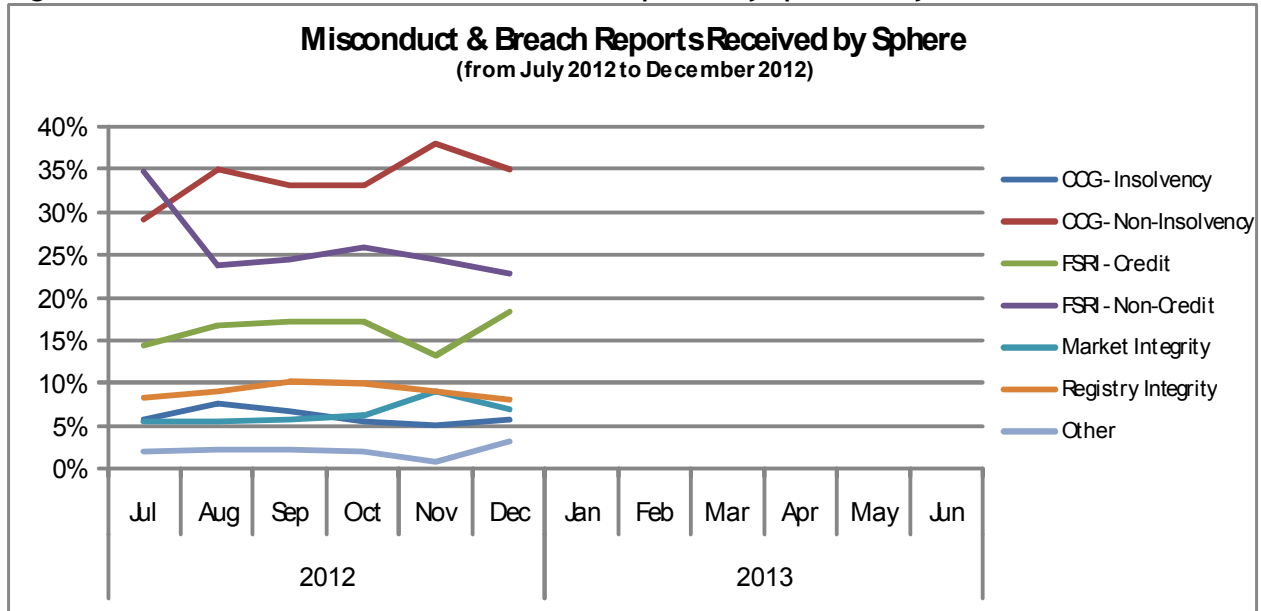
Keyword Category	2012 - 2013					2012 - 2013 Oct-Dec Breakdown			2011 - 2012		
	YTD	Jul-Sep	<b>Oct-Dec</b>	Jan-Feb	Apr-Jun	Oct	Nov	<b>Dec</b>	Oct-Dec	YTD	Full Year
Corporations / Corporate Governance											
Insolvency *	<b>6%</b>	7%	<b>5%</b>			6%	5%	<b>6%</b>	8%	8%	8%
Non-Insolvency	<b>34%</b>	32%	<b>35%</b>			33%	38%	<b>35%</b>	38%	35%	37%
Financial Services / Retail Investors											
Credit	<b>16%</b>	16%	<b>16%</b>			17%	13%	<b>18%</b>	15%	13%	16%
Non-Credit	<b>26%</b>	28%	<b>25%</b>			26%	25%	<b>23%</b>	29%	31%	27%
Market Integrity	<b>6%</b>	6%	<b>7%</b>			6%	9%	<b>7%</b>	5%	5%	5%
Registry Integrity	<b>9%</b>	9%	<b>9%</b>			10%	9%	<b>8%</b>	4%	5%	6%
Other	<b>2%</b>	2%	<b>2%</b>			2%	1%	<b>3%</b>	1%	2%	2%
Total #	<b>6955</b>	3842	<b>3113</b>			1179	1088	<b>846</b>	3398	7232	14367

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

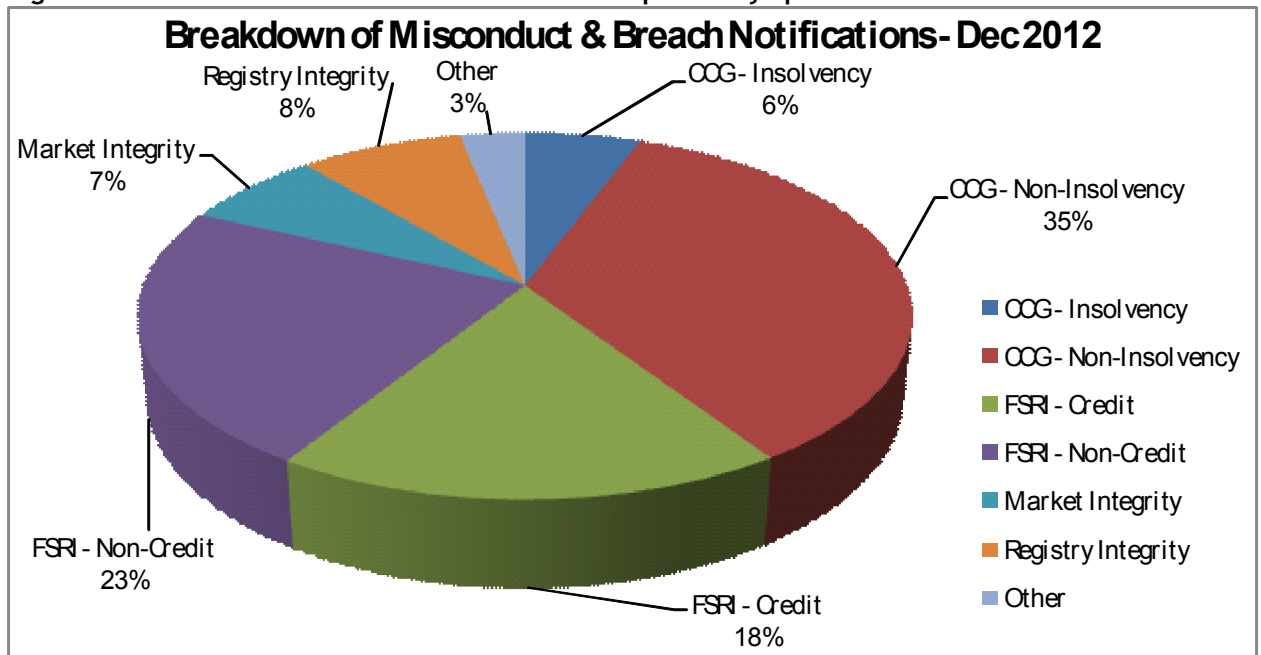
There appears to have been a slight decline in the percentage of matters received that relate to corporate governance and Non-Credit matters since July 2011. There also appears to have been a slight increase in the percentage of Credit matters. As previously reported, as a consequence of ASIC taking over responsibility of the registration of Business Names in July 2012, there has been a significant increase in the percentage of Registry Integrity matters received since then.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between July 2012 and June 2013 and Figure 2 shows the breakdown for December 2012.

**Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2012 - June 2013**



**Figure 2: Breakdown of Misconduct and Breach Reports - by Sphere - December 2012**



**Table 2: Corporations / Corporate Governance - Top 5 issues for each time period, sorted by current YTD**

	2012 - 2013					2012 - 2013 Oct - Dec Breakdown			2011 - 2012		
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Feb	Apr-Jun	Oct	Nov	Dec	Oct-Dec	YTD	Full Year
EXAD assistance request (RATA / books & records).	10%	9%	11%			10%	12%	9%	8%	8%	10%
Contractual Issues.*	6%	8%	5%				5%		8%	6%	6%
Insolvent Trading - unlisted.	4%	5%	3%			3%		4%	6%	6%	6%
Insolvency Practitioner Misconduct	3%	2%	4%			3%	3%	5%	4%	3%	3%
Directors' Duties.	2%		2%			2%	0%	3%	3%	3%	3%
Internal Dispute.		2%				0%	3%	0%			
Total #	6955	3842	3113			1179	1088	846	3398	7232	14367

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the top 5 CCG issues have remained relatively stable since July 2011. The percentage of Insolvent Trading matters appears to have declined this financial year, but it is too early to determine if this is a permanent change.

The full list of issues for October to December 2012 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Top 5 issues for each time period, sorted by current YTD**

	2012 - 2013					2012 - 2013 Oct - Dec Breakdown			2011 - 2012		
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Feb	Apr-Jun	Oct	Nov	Dec	Oct-Dec	YTD	Full Year
Credit	16%	16%	16%			17%	13%	18%	15%	13%	16%
Unlicensed / Unregistered	6%	7%	5%			5%	6%	5%			
Managed Investment Scheme	4%	6%	3%			4%	2%	2%	3%	4%	4%
Scams	3%	3%	2%			2%	2%		4%	4%	4%
Advisers	2%	2%	2%			2%	3%	2%	13%	12%	10%
Insurance							2%	2%	1%	1%	1%
Superannuation											
Total #	6955	3842	3113			1179	1088	846	3398	7232	14367

Table 3 shows that the top 5 FSRI issues have remained relatively stable since July 2011, with the exception of Adviser issues in the first half of 2011-2012. There was a large increase in Advisers matters reported to ASIC at that time because we were taking over Credit registration. Related to this, because a large number of number of credit professionals chose not register under the new regime, they also chose not to renew their FOS registration, which resulted in large numbers of notifications from FOS telling us that the member had been expelled.

As expected from the results in page 1, there appears to have been a slight increase in the percentage of Credit matters received so far this financial year compared to the same time last year (16% ytd this year compared to 13% ytd last year).

The full list of issues for October to December 2012 is detailed in Appendix A.

**Table 4: Market Integrity - Top 5 issues for each time period, sorted by current YTD**

	2012 - 2013					2012 - 2013 Oct - Dec Breakdown			2011 - 2012		
<b>Keyword Category</b>	<b>YTD</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>	<b>Jan-Feb</b>	<b>Apr-Jun</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Oct-Dec</b>	<b>YTD</b>	<b>Full Year</b>
Market Manipulation.	2%	1%	2%			1%	3%	2%	1%	1%	1%
Insider Trading.	1%	1%	1%			2%	2%	1%	1%	1%	1%
Continuous Disclosure Listed.	1%	1%	1%			1%	2%	1%	1%	1%	1%
Misleading Statements.	1%	1%	2%			1%	1%	2%	1%	1%	1%
Market Integrity Rules.	1%	1%	0%			1%	1%				1%
Director's Interest Notification.									0%	0%	
Substantial Shareholding Notification.								0%			
<b>Total #</b>	<b>6955</b>	<b>3842</b>	<b>3113</b>			<b>1179</b>	<b>1088</b>	<b>846</b>	<b>3398</b>	<b>7232</b>	<b>14367</b>

Due to the low volumes involved, this sphere tends to shows more transient variability than either CCG or FSRI.

The full list of issues for October to December 2012 is detailed in Appendix A.

## Appendix A

Misconduct & Breach reporting Reports Received between October and December 2012						
FE Sphere	Sub-Group	1st Keyword	Oct	Nov	Dec	Total
Corporations / Corporate Governance	Insolvency	CCG - insolvent trading - unlisted.	41	30	32	103
		CCG - avoiding employee entitlements.	9	14	6	29
		CCG - phoenix activity.	12	8	6	26
		CCG - insolvent trading - listed.	4	4	4	12
		<b>Insolvency</b>	<b>66</b>	<b>56</b>	<b>48</b>	<b>170</b>
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - commercial decisions.	2	3	12	17
		CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg, poor realisation of assets).	7	8	11	26
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.		3	7	10
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	7	7	4	18
		CCG - insolvency practitioner misconduct - inadequate investigations / inadequate reporting.	6	6	4	16
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence / inadequate DIRRI.	3	4	3	10
		CCG - insolvency practitioner misconduct - excessive remuneration / inadequate disclosure of remuneration.	2	3	2	7
		CCG - insolvency practitioner misconduct - fraud.	2	1	1	4
		CCG - insolvency practitioner misconduct - favouring directors or related parties.		2	1	3
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor meetings.	1	1		2
		<b>Insolvency Practitioner Misconduct</b>	<b>30</b>	<b>38</b>	<b>45</b>	<b>113</b>
	Non-Insolvency	CCG - EXAD assistance request (RATA / books & records).	119	135	80	334
		CCG - contractual issues.	64	51	32	147
		CCG - directors' duties.	24	23	26	73
		CCG - non lodgement of financial reports.	13	21	25	59
		CCG - internal dispute.	22	28	16	66
		CCG - other corporations / corporate governance misconduct.	16	21	10	47
		CCG - lodging false or misleading documents.	9	10	10	29
		CCG - other financial reporting.	4	4	8	16
		CCG - managing whilst disqualified.	16	16	7	39
		CCG - shareholders' rights.	13	18	7	38



		CCG - illegal fundraising - illegal offer of debentures / securities without prospectus.	3	5	6	14
		Auditor breach report - qualified audit report / disclaimer of opinion.	15	15	5	35
		CCG - meetings of members.	6	4	4	14
		CCG - auditor misconduct.		2	4	6
		CCG - other corporations / corporate governance fraud.	7	5	2	14
		CCG - takeover.	1	4	2	7
		Auditor breach report - going concern.	4		2	6
		CCG - fraud by officer / misappropriation of company funds.	4	4	1	9
		CCG - director disqualification.	4	2	1	7
		Auditor breach report - non-compliance with accounting standards.	5	1	1	7
		CCG - related party transactions - conflicts of interest.	2	1	1	4
		CCG - illegal fundraising - advertising / hawking securities.	2		1	3
		CCG - disclosure - prospectus / offer information statement / shares & debentures.	3	2		5
		CCG - buybacks / capital reduction.	2	3		5
		CCG - late lodgement / non-lodgement of financial reports.		1		1
		CCG - offences by officers (s471A, s590, s596).	1			1
		<b>Non-Insolvency</b>	<b>359</b>	<b>376</b>	<b>251</b>	<b>986</b>
	<b>Corporations / Corporate Governance</b>		<b>455</b>	<b>470</b>	<b>344</b>	<b>1269</b>
Financial Services / Retail Investors	Advisers	FSRI - advisers - quality of advice - non-superannuation investment.	1	10	4	15
		FSRI - advisers - quality of advice - other.	6	6	3	15
		FSRI - advisers - FSG / SOA.	4	1	3	8
		FSRI - advisers - fraud.	2	5	1	8
		FSRI - advisers - performance of investment.	2	2	1	5
		FSRI - advisers - quality of advice - insurance.	2	3	1	6
		FSRI - advisers - licence obligations - s912A general obligations.	1			1
		FSRI - advisers - advertising.	4	1		5
		FSRI - advisers - quality of advice - superannuation.		2		2
		FSRI - advisers - quality of advice - SMSF.	3	1		4
		FSRI - advisers - fees and charges / commissions.	2	2		4
		<b>Advisers</b>	<b>27</b>	<b>33</b>	<b>13</b>	<b>73</b>
	Credit	FSRI - credit - complaint about EDR scheme.	1	1		2

	FSRI - credit - indigenous.		1		1
	<b>Credit</b>	<b>1</b>	<b>2</b>		<b>3</b>
Credit (ADI)	FSRI - credit (ADI) - licence obligations - s47 general obligations.	10	3	8	21
	FSRI - credit (ADI) - unconscionable conduct.	6	2	6	14
	FSRI - credit (ADI) - fraud.	14	2	4	20
	FSRI - credit (ADI) - hardship.		1	4	5
	FSRI - credit (ADI) - debt collection / debtor harassment / debt recovery.	6	1	2	9
	FSRI - credit (ADI) - fees and charges / interest rates.	1	4	2	7
	FSRI - credit (ADI) - unsolicited credit / limit increase.			2	2
	FSRI - credit (ADI) - credit cards / store cards.	3	1	1	5
	FSRI - credit (ADI) - home loans.	3	1	1	5
	FSRI - credit (ADI) - responsible lending.	3	3	1	7
	FSRI - credit (ADI) - investment loans.	1		1	2
	FSRI - credit (ADI) - disclosure.			1	1
	FSRI - credit (ADI) - small business lending.	1		1	2
	FSRI - credit (ADI) - unfair contract terms.			1	1
	FSRI - credit (ADI) - misleading or deceptive conduct.	1	3		4
	FSRI - credit (ADI) - unlicensed conduct.	2	1		3
	FSRI - credit (ADI) - other.	1			1
	FSRI - credit (ADI) - advertising.	1	1		2
	FSRI - credit (ADI) - personal loans.	1	2		3
	FSRI - credit (ADI) - IDR process.	1	1		2
	FSRI - credit (ADI) - Code avoidance.	1	1		2
	<b>Credit (ADI)</b>	<b>56</b>	<b>27</b>	<b>35</b>	<b>118</b>
Credit (non-ADI)	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	39	28	56	123
	FSRI - credit (non-ADI) - responsible lending.	8	16	16	40
	FSRI - credit (non-ADI) - unlicensed conduct.	52	17	15	84
	FSRI - credit (non-ADI) - debt collection / debtor harassment / debt recovery.	17	21	8	46
	FSRI - credit (non-ADI) - unconscionable conduct.	6	5	5	16
	FSRI - credit (non-ADI) - advertising.		5	3	8
	FSRI - credit (non-ADI) - other.	6	2	2	10
	FSRI - credit (non-ADI) - fraud.	3	8	2	13
	FSRI - credit (non-ADI) - investment loans.			2	2

		FSRI - credit (non-ADI) - small business lending.		1	2	3
		FSRI - credit (non-ADI) - misleading or deceptive conduct.	6	5	1	12
		FSRI - credit (non-ADI) - personal loans.	3	1	1	5
		FSRI - credit (non-ADI) - fees and charges / interest rates.	4	2	1	7
		FSRI - credit (non-ADI) - home loans.		1	1	2
		FSRI - credit (non-ADI) - hardship.	1	1	1	3
		FSRI - credit (non-ADI) - IDR process.		2	1	3
		FSRI - credit (non-ADI) - disclosure.			1	1
		FSRI - credit (non-ADI) - unfair contract terms.			1	1
		FSRI - credit (non-ADI) - Code avoidance.			1	1
		FSRI - credit (non-ADI) - debt collection, default notices and recovery.	1	1		2
		<b>Credit (non-ADI)</b>	<b>146</b>	<b>116</b>	<b>120</b>	<b>382</b>
Deposit Takers		FSRI - deposit takers - account.	2	1	4	7
		FSRI - deposit takers - fees and charges.			1	1
		FSRI - deposit takers - advertising.			1	1
		<b>Deposit Takers</b>	<b>2</b>	<b>1</b>	<b>6</b>	<b>9</b>
General		FSRI - general - risk management / compliance systems.	52	51	52	155
		FSRI - general - provide financial services efficiently, honestly, fairly.	29	17	14	60
		FSRI - general - supervision of authorised and other representatives.	6	5	7	18
		FSRI - general - IDR process of licensee.		3	4	7
		FSRI - general - unconscionable conduct.	5	1	3	9
		FSRI - general - complaint about EDR scheme (not credit).	1	6	2	9
		FSRI - general - fraud.	3	6	2	11
		FSRI - general - misleading or deceptive conduct.	7	1	1	9
		FSRI - general - false or misleading representations.	3	8	1	12
		FSRI - general - training and competence.	5	2	1	8
		FSRI - general - disclosure other products.	2	1		3
		FSRI - general - unfair contract term.	2	1		3
		FSRI - general - conflicts of interest.		1		1
		<b>General</b>	<b>115</b>	<b>103</b>	<b>87</b>	<b>305</b>
Insurance		FSRI - insurance - disclosure.	4	2	2	8
		FSRI - insurance - motor vehicle insurance.	1		1	2
		FSRI - insurance - other.	1		1	2
		FSRI - insurance - claims.	3	2		5

	FSRI - insurance - life insurance.	2	2		4
	FSRI - insurance - advertising.		1		1
	FSRI - insurance - sales.		2		2
	<b>Insurance</b>	<b>11</b>	<b>9</b>	<b>4</b>	<b>24</b>
Investment Bank	<b>Investment Bank</b>		<b>1</b>		<b>1</b>
Managed Investment Scheme	FSRI - managed investment scheme - unit pricing.	2		<b>5</b>	7
	FSRI - managed investment scheme - other.	3	2	<b>3</b>	8
	FSRI - managed investment scheme - frozen fund.	7	5	<b>3</b>	15
	FSRI - managed investment scheme - compliance plan.	16	3	<b>2</b>	21
	FSRI - managed investment scheme - fraud.			<b>2</b>	2
	FSRI - managed investment scheme - fees and charges.	2	3	<b>1</b>	6
	FSRI - managed investment scheme - member reporting.	18	2		20
	FSRI - managed investment scheme - takeover / control / meetings.	2	2		4
	FSRI - managed investment scheme - timeshare.	1	1		2
	FSRI - managed investment scheme - advertising.		1		1
	<b>Managed Investment Scheme</b>	<b>51</b>	<b>19</b>	<b>16</b>	<b>86</b>
Other	<b>Other</b>		<b>1</b>		<b>1</b>
Other Product	FSRI - other product - carbon credits / emission units.	1		<b>1</b>	2
	<b>Other Product</b>	<b>1</b>		<b>1</b>	<b>2</b>
Scams	FSRI - sports arbitrage / gambling scheme.	5	3	<b>3</b>	11
	FSRI - scams - Nigerian.	4	4	<b>3</b>	11
	FSRI - scams - phishing.	11	4	<b>1</b>	16
	FSRI - scams - money transfer schemes (job opportunity).			<b>1</b>	1
	FSRI - scams - money transfer schemes (other fraud).	4	4	<b>1</b>	9
	FSRI - scams - fake debt / invoices.	1	1	<b>1</b>	3
	FSRI - scams - fake credit / loans.	1	1		2
	<b>Scams</b>	<b>26</b>	<b>17</b>	<b>10</b>	<b>53</b>
Superannuation	FSRI - superannuation - disclosure.	2	3	<b>9</b>	14
	FSRI - superannuation - account administration / payment issues.		6	<b>3</b>	9
	FSRI - superannuation - other.	4	2	<b>2</b>	8
	FSRI - superannuation - SMSF.			<b>2</b>	2
	FSRI - superannuation - fees and charges.	5	3	<b>1</b>	9
	FSRI - superannuation - illegal early access.		3		3
	FSRI - superannuation - performance of fund.	2	1		3

## Stakeholder Services

		FSRI - superannuation - advertising.	1			1
		<b>Superannuation</b>	<b>14</b>	<b>18</b>	<b>17</b>	<b>49</b>
	Unlicensed / Unregistered	FSRI - unlicensed financial services.	24	17	15	56
		FSRI - unlicensed financial services - overseas cold calling.	13	5	10	28
		FSRI - unlicensed financial services - holding out.	1	1	4	6
		FSRI - unregistered managed investment scheme.	4	4	3	11
		FSRI - unlicensed financial services - acting outside the scope.	2	1	3	6
		FSRI - unregistered managed investment scheme - ponzi.	2	29	2	33
		FSRI - unlicensed financial services - trading software.	4	2	1	7
		FSRI - unlicensed financial services - wealth creation seminar.	3	3	1	7
		FSRI - unlicensed financial services - onshore cold calling.	2	2		4
		FSRI - unlicensed financial services - carbon credit / emission units.	2			2
		FSRI - unlicensed financial services - hawking of financial products.	1	1		2
		<b>Unlicensed / Unregistered</b>	<b>58</b>	<b>65</b>	<b>39</b>	<b>162</b>
	Unsolicited Offer	<b>Unsolicited Offer</b>	<b>1</b>		<b>1</b>	<b>2</b>
	<b>Financial Services / Retail Investors</b>		<b>509</b>	<b>412</b>	<b>349</b>	<b>1270</b>
Registry Integrity	Registry Integrity	REG - business names - unregistered.	36	38	22	96
		REG - address offence.	32	23	14	69
		REG - other.	11	13	13	37
		REG - business names - similar names.	11	4	6	21
		REG - carrying on business using Ltd NL or Pty in name.	5	8	6	19
		REG - business names - other.	12	4	3	19
		REG - other registry fraud.	3	3	2	8
		REG - no directors.	2	2	2	6
		REG - request to halt deregistration.	4			4
		REG - never consented to be a director.	1	4		5
		REG - business names - disqualified person.	1			1
	<b>Registry Integrity</b>		<b>118</b>	<b>99</b>	<b>68</b>	<b>285</b>
Market Integrity	Market Integrity	MI - market manipulation.	16	37	15	68
		MI - continuous disclosure listed.	11	13	13	37
		MI - insider trading.	11	19	12	42
		MI - misleading statements.	26	17	9	52
		MI - substantial shareholding notification.	1	1	4	6

		MI - market integrity rules.	6	7	2	15
		MI - director's interest notification.		1	2	3
		MI - AQUA misconduct.			1	1
		MI - market participant / stockbroker misconduct.		2		2
		MI - short selling.	1			1
		MI - market operator misconduct.		1		1
		MI - continuous disclosure unlisted.	1			1
		MI - false market rumours.	1			1
		<b>Market Integrity</b>	<b>74</b>	<b>98</b>	<b>58</b>	<b>230</b>
Other	Other	AUSTRAC - suspicious matter report - other.	9	3	16	28
		AUSTRAC - suspicious matter report - corporate fraud.	1	1	4	6
		OTH - other.	5	2	2	9
		AUSTRAC - suspicious matter report - gambling.			2	2
		AUSTRAC - suspicious matter report - unlicensed.			1	1
		OTH - suspicious international capital flow.		1	1	2
		Unknown			1	1
		AUSTRAC - suspicious matter report - credit application.	4	1		5
		AUSTRAC - suspicious matter report - SMSF.	1			1
		Administrative Law - s127 ASIC Act - unsolicited release.	1			1
		OTH - complaint about ASIC.	2			2
		OTH - complaint about other government agency.		1		1
	Other		23	9	27	59
Total			1179	1088	846	3113

# Misconduct & Breach Reporting

## *Risk & Trend Analysis - 1 January 2013 to 31 March 2013*

This report contains a snapshot of the 3113 misconduct and breach reports received between 1 January 2013 and 31 March 2013.

Where necessary, data for:

- the current financial year to date,
- the July to September 2012 quarter,
- the October to December 2012 quarter,
- the January to March 2013 quarter,
- the individual months from January 2013 to March 2013
- the January 2012 to March 2012 quarter,
- the 2010-2011 financial year to date (ie July 2011 - March 2012), and
- the full 2010-2011 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from January to March 2013, according to financial economy sphere. Data for the current financial year to date, current quarter and current month are highlighted in bold print.

**Table 1: Sphere analysis**

Keyword Category	2012 - 2013					2012 - 2013 Jan-Mar Breakdown			2011 - 2012		
	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jan	Feb	Mar	Jan-Mar	YTD	Full Year
Corporations / Corporate Governance											
Insolvency *	<b>6%</b>	7%	5%	<b>5%</b>		6%	5%	<b>5%</b>	9%	6%	8%
Non-Insolvency	<b>34%</b>	32%	36%	<b>35%</b>		36%	35%	<b>35%</b>	37%	24%	37%
Financial Services / Retail Investors											
Credit	<b>17%</b>	16%	16%	<b>19%</b>		17%	17%	<b>22%</b>	21%	9%	16%
Non-Credit	<b>26%</b>	28%	25%	<b>25%</b>		25%	25%	<b>24%</b>	21%	21%	27%
Market Integrity	<b>6%</b>	6%	7%	<b>6%</b>		6%	7%	<b>5%</b>	4%	4%	5%
Registry Integrity	<b>9%</b>	9%	9%	<b>8%</b>		9%	9%	<b>7%</b>	6%	3%	6%
Other	<b>2%</b>	2%	2%	<b>2%</b>		1%	2%	<b>2%</b>	2%	1%	2%
Total #	<b>10121</b>	3842	3114	<b>3165</b>		980	1052	<b>1133</b>	3534	10766	14366

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

There appears to have been a slight decline in the percentage of matters received that relate to corporate governance and Non-Credit matters since July 2011. The percentage of Credit matters increased during the current quarter (19%), matching a similar rise in the same quarter last financial year (21%). During the intervening quarter the percentage of such matters was lower (averaging 16%). This may be indicative of a cyclic trend, but we will require another twelve months of data to confirm this. The increase in the percentage of Registry Integrity matters received since ASIC took over responsibility for the registration of Business Names in July has continued through to the present quarter.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between July 2012 and June 2013 and Figure 2 shows the breakdown for March 2013.

Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2012 - June 2013

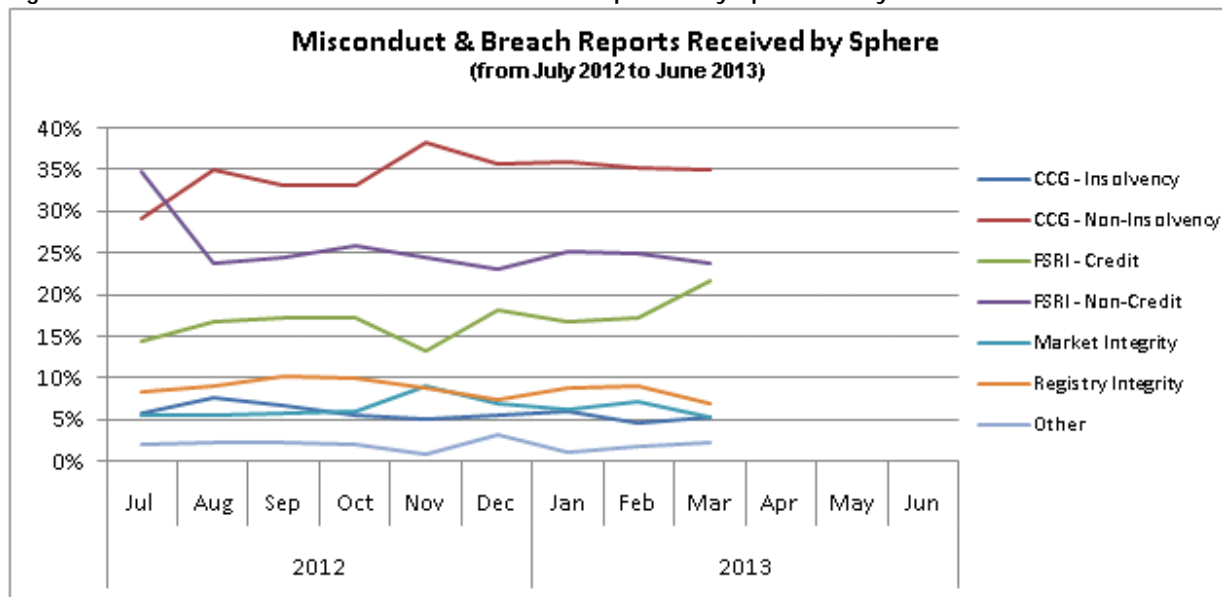


Figure 2: Breakdown of Misconduct and Breach Reports - by Sphere - March 2013

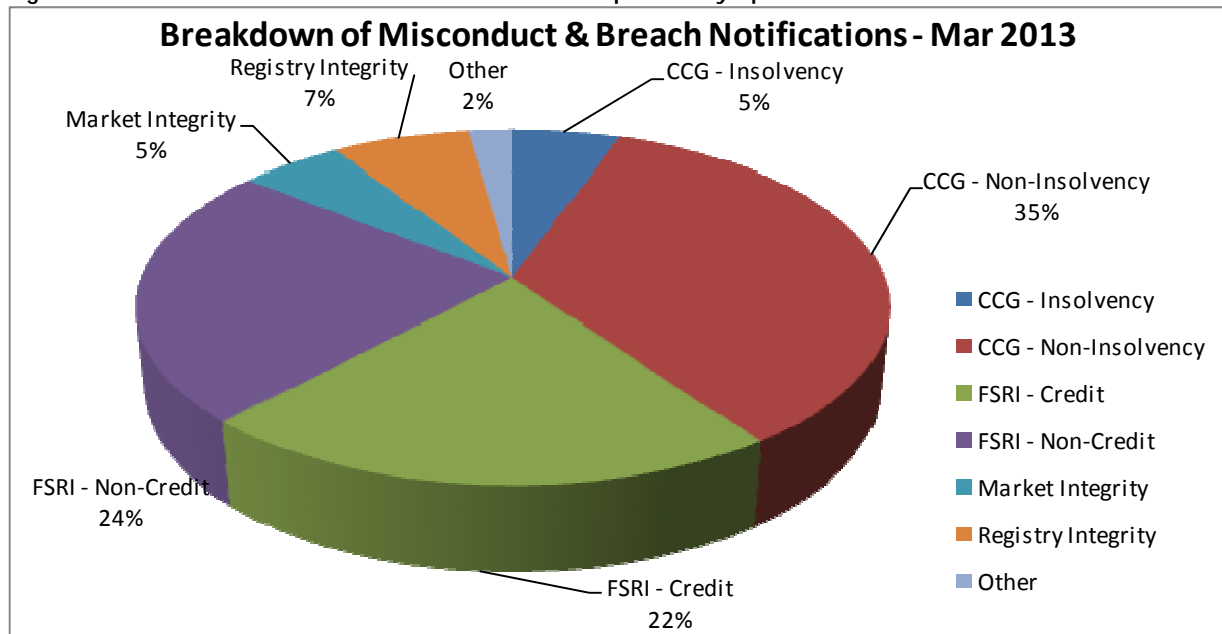




Table 2: Corporations / Corporate Governance - Top 5 issues for each time period, sorted by current YTD

	2012 - 2013					Breakdown			2011 - 2012		
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jan	Feb	Mar	Jan-Mar	YTD	Full Year
EXAD assistance request (RATA / books & records).	11%	9%	11%	13%		14%	13%	11%	8%	9%	10%
Contractual issues.*	6%	8%	5%	5%		7%	5%	4%	5%	6%	6%
Insolvent trading - unlisted.	4%	5%	3%	3%		3%	2%	3%	7%	6%	6%
Insolvency Practitioner Misconduct	3%	2%	4%	4%		3%	3%	4%	3%	3%	3%
Internal dispute.	2%	2%		2%			2%				
Directors' duties.		0%	2%			2%			3%	3%	3%
Other corporations / corporate governance misconduct.		0%					2%				
Lodging false or misleading documents.		0%						3%			
Total #	10121	3842	3114	3165		980	1052	1133	3398	10766	14366

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the top 4 CCG issues have remained relatively stable since July 2011, with various issues competing for fifth place. The previous quarterly report suggested that the percentage of Insolvent Trading matters was declining; the continuing low levels of such reports this quarter supports this view. The percentage of EXAD assistance requests is much higher this quarter (13%) than it was in the same quarter last financial year (8%). It is too soon to tell whether this is a change in the cyclic pattern or whether it reflects an increase in requests for assistance from liquidators who are dealing with companies that went into liquidation during the GFC. We will need to collect additional data to confirm which of these is occurring.

The full list of issues for January to March 2013 is detailed in Appendix A.

Table 3: Financial Services / Retail Investors - Top 5 issues for each time period, sorted by current YTD

	2012 - 2013					Breakdown			2011 - 2012		
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jan	Feb	Mar	Jan-Mar	YTD	Full Year
Credit	17%	16%	16%	19%		17%	17%	22%	21%	9%	16%
Unlicensed / Unregistered	5%	7%	5%	4%		4%	4%	4%			
Advisers	3%	2%	2%	3%		3%	5%	2%	7%	8%	10%
Scams	2%	3%	2%	1%				1%	4%	3%	4%
Managed Investment Scheme	0%	6%	3%	2%		2%	3%	2%	2%	3%	4%
Insurance						1%			1%	1%	1%
Investment Bank							1%				
Total #	10121	3842	3114	3165		980	1052	1133	3534	10766	14366

Table 3 shows that shows that the top 4 FSRI issues have remained relatively stable since July 2011, with various issues competing for fifth place. As expected from the comments on page 1, the percentage of Credit matters received in the current quarter is similar to that for the same period last financial year (19% compared to 21%), although the percentages in the intervening quarters were lower. This may be indicative of a cyclic trend, but we will require another twelve months of data to confirm this.

NOTE: A 0% value in the table above indicates that the category was one of the top 5 issues raised in the FSRI sphere for that time period, but the percentage value was less than 0.5%. A blank cell indicates that the category was not in the top 5 issues raised in the FSRI sphere for that time period.

The full list of issues for January to March 2013 is detailed in Appendix A.

**Table 4: Market Integrity - Top 5 issues for each time period, sorted by current YTD**

	2012 - 2013					Breakdown			2011 - 2012		
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jan	Feb	Mar	Jan-Mar	YTD	Full Year
Market Manipulation.	2%	1%	2%	1%		1%	1%	0%	1%	1%	1%
Misleading Statements.	1%	1%	2%	1%		1%	2%	1%	1%	1%	1%
Insider Trading.	1%	1%	1%	1%		1%	1%	1%	1%	1%	1%
Continuous Disclosure Listed.	1%	1%	1%	1%		1%	1%	1%	1%	1%	1%
Market Integrity Rules.	1%	1%	0%	0%		0%	0%				1%
Director's Interest Notification.									0%	0%	
Substantial Shareholding Notification.								0%			
Total #	10121	3842	3114	3165		980	1052	1133	3534	10766	14366

Table 4 shows that the top 4 MI issues have remained relatively stable since July 2011, with only minor variation for the fifth place.

NOTE: A 0% value in the table above indicates that the category was one of the top 5 issues raised in the MI sphere for that time period, but the percentage value was less than 0.5%. A blank cell indicates that the category was not in the top 5 issues raised in the MI sphere for that time period.

The full list of issues for January to March 2013 is detailed in Appendix A.

#### High volume Market Integrity complaints for January to March 2013:

There were no high volume Market Integrity matters this quarter.

## Appendix A

Misconduct & Breach Reports Received between January and March 2013						
FE Sphere	Sub-Group	First Keyword	Jan	Feb	Mar	Total
Corporations / Corporate Governance	Insolvency	Insolvent trading - unlisted.	30	23	36	89
		Avoiding employee entitlements.	21	13	12	46
		Phoenix activity.	7	13	11	31
		Insolvent trading - listed.	1		2	3
		<b>Insolvency</b>	<b>59</b>	<b>49</b>	<b>61</b>	<b>169</b>
	Insolvency Practitioner Misconduct	Insolvency practitioner misconduct - failing to act in creditors' interests (eg, poor realisation of assets).	9	6	12	27
		Insolvency practitioner misconduct - failing to act in a timely manner.	4	3	17	24
		Insolvency practitioner misconduct - inadequate investigations / inadequate reporting.	4	9	3	16
		Insolvency practitioner misconduct - conflict of interest / lack of independence / inadequate DIRRI.	3	4	5	12
		Insolvency practitioner misconduct - commercial decisions.	5	3	3	11
		Insolvency practitioner misconduct - inadequate reporting to creditors.	3	4	3	10
		Insolvency practitioner misconduct - favouring directors or related parties.	2	1	3	6
		Insolvency practitioner misconduct - excessive remuneration / inadequate disclosure of remuneration.	3		1	4
		Insolvency practitioner misconduct - inadequate conduct of creditor meetings.		2	2	4
		Insolvency practitioner misconduct - facilitating illegal phoenix activity.		3		3
		Insolvency practitioner misconduct - fraud.		1		1
		<b>Insolvency Practitioner Misconduct</b>	<b>33</b>	<b>36</b>	<b>49</b>	<b>118</b>
	Non-Insolvency	EXAD assistance request (rata / books & records).	140	133	128	401
		Contractual issues.	64	48	39	151
		Internal dispute.	17	25	35	77
		Lodging false or misleading documents.	12	17	37	66
		Directors' duties.	22	18	24	64
		Other corporations / corporate governance misconduct.	8	23	21	52
		Managing whilst disqualified.	10	16	12	38
		Non lodgement of financial reports.	12	5	11	28
		Illegal fundraising - illegal offer of debentures / securities without prospectus.	7	6	2	15
		Director disqualification.	2	5	7	14
		Shareholders' rights.	3	6	5	14
		Other financial reporting.	2	8	3	13
		Meetings of members.	3	5	2	10
		Auditor breach report - qualified audit report / disclaimer of opinion.	2	2	3	7
		Fraud by officer / misappropriation of company funds.	4	1	2	7
		Related party transactions - conflicts of interest.	1	3	3	7
		Auditor breach report - going concern.	1	1	4	6

## Stakeholder Services

		Disclosure - prospectus / offer information statement / shares & debentures.	3	1	2	6
		Takeover.	1	5		6
		Offences by officers (s471a, s590, s596).	1	2	2	5
		Other corporations / corporate governance fraud.		2	3	5
		Auditor misconduct.	1	2		3
		Illegal fundraising - advertising / hawking securities.	2			2
		Auditor breach report - non-compliance with accounting standards.		1		1
		Buybacks / capital reduction.		1		1
		Schemes of arrangement.			1	1
		<b>Non-Insolvency</b>	<b>318</b>	<b>336</b>	<b>346</b>	<b>1000</b>
		<b>Corporations / Corporate Governance</b>	<b>410</b>	<b>421</b>	<b>456</b>	<b>1287</b>
Financial Services / Retail Investors	Advisers	Advisers - fraud.	27	49	9	85
		Advisers - quality of advice - other.	3	3	3	9
		Advisers - FSG / SOA.	1	3	1	5
		Advisers - advertising.			2	2
		Advisers - fees and charges / commissions.			2	2
		Advisers - quality of advice - insurance.		1	1	2
		Advisers - quality of advice - superannuation.	1	1		2
		Advisers - quality of advice - SMSF.			1	1
		<b>Advisers</b>	<b>32</b>	<b>57</b>	<b>19</b>	<b>108</b>
	Credit	Credit - complaint about edr scheme.	1	2	3	6
		Credit - indigenous.	1			1
		<b>Credit</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>7</b>
	Credit (ADI)	Credit (ADI) - licence obligations - s47 general obligations.	8	19	16	43
		Credit (ADI) - unconscionable conduct.	5	6	3	14
		Credit (ADI) - fraud.	3	5	3	11
		Credit (ADI) - credit cards / store cards.	3	1	2	6
		Credit (ADI) - debt collection / debtor harassment / debt recovery.	1	1	4	6
		Credit (ADI) - fees and charges / interest rates.	1	2	3	6
		Credit (ADI) - misleading or deceptive conduct.	2	2	1	5
		Credit (ADI) - responsible lending.	2	2		4
		Credit (ADI) - unlicensed conduct.	1	1	2	4
		Credit (ADI) - hardship.		2	1	3
		Credit (ADI) - advertising.		1	1	2
		Credit (ADI) - home loans.			2	2
		Credit (ADI) - unsolicited credit / limit increase.	1		1	2
		Credit (ADI) - idr process.	1			1
		Credit (ADI) - disclosure.			1	1
		Credit (ADI) - other.		1		1
		<b>Credit (ADI)</b>	<b>28</b>	<b>43</b>	<b>40</b>	<b>111</b>
	Credit (non-ADI)	Credit (non-ADI) - licence obligations - s47 general obligations.	67	66	103	236
		Credit (non-ADI) - unlicensed conduct.	16	23	18	57

## Stakeholder Services

		Credit (non-ADI) - debt collection / debtor harassment / debt recovery.	14	22	19	55
		Credit (non-ADI) - other.	1	3	29	33
		Credit (non-ADI) - responsible lending.	12	4	6	22
		Credit (non-ADI) - misleading or deceptive conduct.	5	2	11	18
		Credit (non-ADI) - unconscionable conduct.	7	6	2	15
		Credit (non-ADI) - fraud.	2	4	2	8
		Credit (non-ADI) - advertising.	3	1	3	7
		Credit (non-ADI) - hardship.	2		2	4
		Credit (non-ADI) - short term / payday loans.	1		3	4
		Credit (non-ADI) - personal loans.	2		1	3
		Credit (non-ADI) - code avoidance.	1	1		2
		Credit (non-ADI) - fees and charges / interest rates.	1	1		2
		Credit (non-ADI) - loan re-financing / re-draw / switching.		1	1	2
		Credit (non-ADI) - idr process.			1	1
		Credit (non-ADI) - disclosure.			1	1
		Credit (non-ADI) - home loans.			1	1
		Credit (non-ADI) - investment loans.		1		1
		Credit (non-ADI) - small business lending.		1		1
		Credit (non-ADI) - unfair contract terms.	1			1
		Credit (non-ADI) - unsolicited credit / limit increase.			1	1
		<b>Credit (non-ADI)</b>	<b>135</b>	<b>136</b>	<b>204</b>	<b>475</b>
Deposit Takers		Deposit takers - account.	2		4	6
		Deposit takers - fees and charges.	1	1		2
		Deposit takers - advertising.		1		1
		<b>Deposit Takers</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>9</b>
General		General - provide financial services efficiently, honestly, fairly.	47	25	50	122
		General - risk management / compliance systems.	30	29	51	110
		General - misleading or deceptive conduct.	9	7	7	23
		General - supervision of authorised and other representatives.	6	7	10	23
		General - complaint about EDR scheme (not credit).	2	2	11	15
		General - unconscionable conduct.	5	7	3	15
		General - false or misleading representations.	7	1	5	13
		General - FOS or COSL expulsion.	2	4	4	10
		General - fraud.	2	1	4	7
		General - training and competence.	2	4		6
		General - IDR process of licensee.	3		1	4
		General - conflicts of interest.	1	2		3
		General - disclosure other products.	1	1		2
		General - comparison websites.		1		1
		General - unfair contract term.	1			1
		<b>General</b>	<b>118</b>	<b>91</b>	<b>146</b>	<b>355</b>
Insurance		Insurance - disclosure.	2	2	5	9
		Insurance - claims.	4	1		5
		Insurance - sales.	1	1	2	4

## Stakeholder Services

		Insurance - advertising.	2	1		3
		Insurance - consumer credit insurance.	1	1	1	3
		Insurance - motor vehicle insurance.	2	1		3
		Insurance - funeral insurance.	1	1		2
		Insurance - other.		2		2
		Insurance - life insurance.	1			1
		<b>Insurance</b>	<b>14</b>	<b>10</b>	<b>8</b>	<b>32</b>
	Investment Bank	<b>Investment Bank / Investment Bank Products</b>		<b>11</b>	<b>1</b>	<b>12</b>
	Managed Investment Scheme	Managed investment scheme - compliance plan.	6		6	12
		Managed investment scheme - member reporting.	1	4	5	10
		Managed investment scheme - other.	3	7		10
		Managed investment scheme - takeover / control / meetings.	1		7	8
		Managed investment scheme - fees and charges.	1	5	1	7
		Managed investment scheme - unit pricing.	3	4		7
		Managed investment scheme - frozen fund.	1	4		5
		Managed investment scheme - PDS.	1	2	1	4
		Managed investment scheme - timeshare.	2		2	4
		Managed investment scheme - related party transactions.		1		1
		<b>Managed Investment Scheme</b>	<b>19</b>	<b>27</b>	<b>22</b>	<b>68</b>
	Other Product	Other product - margin lending.	3			3
		Other product - non-cash payments.		2		2
		<b>Other Product</b>	<b>3</b>	<b>2</b>		<b>5</b>
	Scams	Sports arbitrage / gambling scheme.	4	2	6	12
		Scams - phishing.	2	3	4	9
		Scams - Nigerian.	1		2	3
		Scams - fake debt / invoices.	1		2	3
		Scams - money transfer schemes (other fraud).	2	1		3
		Scams - lottery.		2		2
		Scams - money transfer schemes (job opportunity).	1		1	2
		<b>Scams</b>	<b>11</b>	<b>8</b>	<b>15</b>	<b>34</b>
	Superannuation	Superannuation - account administration / payment issues.	3	3	1	7
		Superannuation - disclosure.	2	4	1	7
		Superannuation - SMSF auditor concerns.	1	1	4	6
		Superannuation - fees and charges.		1	3	4
		<b>Superannuation</b>	<b>6</b>	<b>9</b>	<b>9</b>	<b>24</b>
	Unlicensed / Unregistered	Unlicensed financial services.	16	18	18	52
		Unlicensed financial services - overseas cold calling.	9	10	10	29
		Unlicensed financial services - onshore cold calling.	5	1	5	11
		Unregistered managed investment scheme.	2	5	3	10
		Unregistered managed investment scheme - ponzi.	2	4		6
		Unlicensed financial services - breach of banning order.	1	2	2	5
		Unlicensed financial services - holding out.	3	1	1	5
		Unlicensed financial services - acting outside the scope.	2	2		4
		Unlicensed financial services - trading software.		1	3	4

## Stakeholder Services

		Unlicensed financial services - wealth creation seminar.	1	1	2	4
		Unlicensed financial services - carbon credit / emission units.		1	1	2
		Unlicensed financial services - hawking of financial products.			1	1
		Unlicensed / Unregistered	41	44	46	131
	Unsolicited Offer	Unsolicited Offer			1	1
Financial Services / Retail Investors			412	444	518	1374
Market Integrity	Market Integrity	Market manipulation.	13	16	15	44
		Misleading statements.	13	6	12	31
		Continuous disclosure listed.	12	10	8	30
		Insider trading.	8	11	8	27
		Director's interest notification.	2	15	4	21
		Market integrity rules.	5	4	6	15
		MI rules 5,11,1 suspicious activity report.	2	8	3	13
		Substantial shareholding notification.	2	3	1	6
		Market participant / stockbroker misconduct.	1	1	1	3
		Short selling.	1	1	1	3
		Market operator misconduct.	2			2
		Continuous disclosure unlisted.	1			1
		Securities dealer misconduct.			1	1
	Market Integrity			62	75	60
Registry Integrity	Registry Integrity	Address offence.	35	26	18	79
		Business names - unregistered.	20	30	27	77
		Business names - similar names.	10	14	5	29
		Carrying on business using Ltd NL or Pty in name.	3	4	11	18
		Other.	5	2	6	13
		Never consented to be a director.	2	6	4	12
		Business names - other.	6	2	1	9
		Other registry fraud.	2	3	3	8
		No directors.		4	2	6
		Request to halt deregistration.	2	2	2	6
		Business names - disqualified person.	1	1		2
	Registry Integrity			86	94	79
Other	Other	Other.	4	8	8	20
		AUSTRAC - suspicious matter report - other.	4	6	6	16
		AUSTRAC - suspicious matter report - corporate fraud.	1		1	2
		AUSTRAC - suspicious matter report - gambling.		1	1	2
		AUSTRAC - suspicious matter report - unlicensed.		1	1	2
		Complaint about other government agency.	1		1	2
		AUSTRAC - suspicious matter report - SMSF.			1	1
		AUSTRAC - suspicious matter report - credit application.		1		1
		Suspicious international capital flow.			1	1
		Unauthorised use of ASIC logo.		1		1
	Other			10	18	20
Grand Total			980	1052	1133	3165





# Misconduct & Breach Reporting

## *Risk & Trend Analysis - 1 April 2013 to 30 June 2013*

This report contains a snapshot of the 3113 misconduct and breach reports received between 1 April 2013 and 30 June 2013.

Where necessary, data for:

- the full 2012-2013 financial year
- the July to September 2012 quarter,
- the October to December 2012 quarter,
- the January to March 2013 quarter,
- the May to June 2013 quarter,
- the individual months from May 2013 to June 2013
- the May 2012 to June 2012 quarter, and
- the full 2011-2012 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from April to June 2013, according to financial economy sphere. Data for the current financial year to date, current quarter and current month are highlighted in bold print.

**Table 1: Sphere analysis**

	<b>2012 - 2013</b>	2012 - 2013	2012 - 2013	2012 - 2013	<b>2012 - 2013</b>	2012 - 2013 Apr - Jun Breakdown			2011 - 2012	2011 - 2012 Full Year
<b>Keyword Category</b>	<b>YTD</b>	<b>Jul-Sep</b>	<b>Oct-Dec</b>	<b>Jan-Mar</b>	<b>Apr-Jun</b>	Apr	May	<b>Jun</b>	Apr-Jun	
Corporations / Corporate Governance										
Insolvency *	<b>6%</b>	7%	5%	5%	<b>7%</b>	5%	7%	<b>8%</b>	7%	8%
Non-Insolvency	<b>34%</b>	32%	36%	35%	<b>35%</b>	34%	37%	<b>34%</b>	39%	37%
Financial Services / Retail Investors										
Credit	<b>16%</b>	16%	16%	19%	<b>14%</b>	18%	12%	<b>12%</b>	15%	16%
Non-Credit	<b>26%</b>	28%	25%	25%	<b>25%</b>	24%	24%	<b>26%</b>	25%	27%
Market Integrity	<b>6%</b>	6%	7%	6%	<b>6%</b>	6%	5%	<b>6%</b>	6%	5%
Registry Integrity	<b>9%</b>	9%	9%	8%	<b>10%</b>	9%	13%	<b>9%</b>	7%	6%
Other	<b>2%</b>	2%	2%	1%	<b>4%</b>	4%	2%	<b>6%</b>	1%	2%
<b>Total #</b>	<b>13290</b>	3842	3114	3163	<b>3171</b>	1060	1126	<b>985</b>	3600	14366

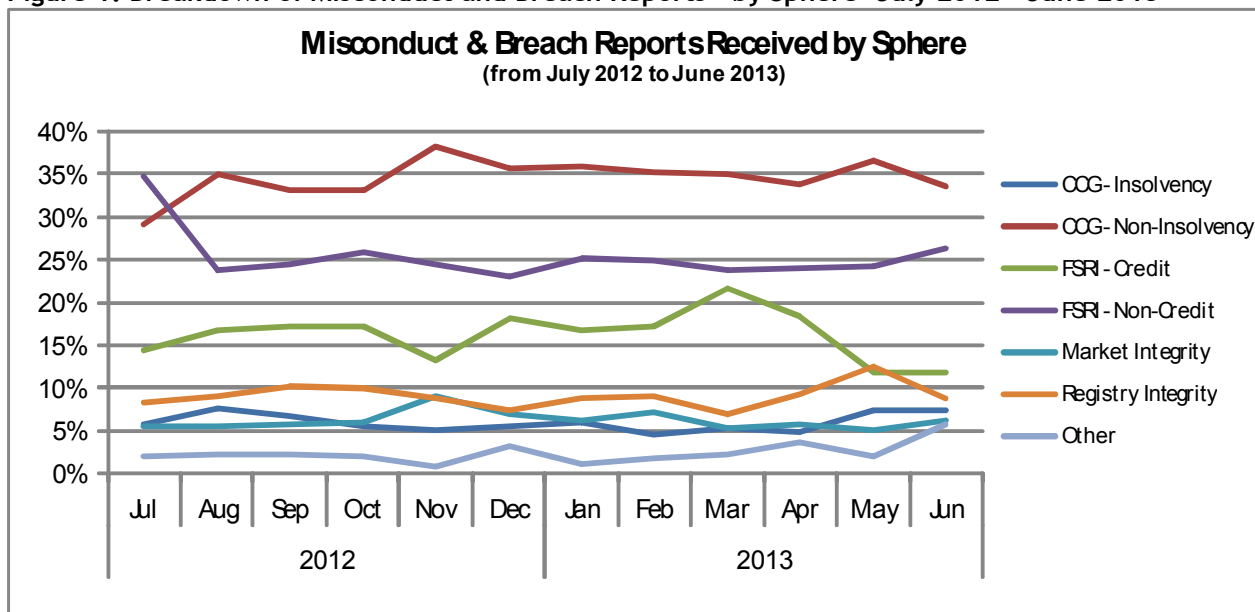
\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

The percentage of matters received related to Credit matters, which increased to 19% in the Jan-Mar quarter, dropped substantially during the April-June quarter to 14%. Based on the pattern that we have observed since March 2011, we expect that this downward trend will reverse during the current quarter.

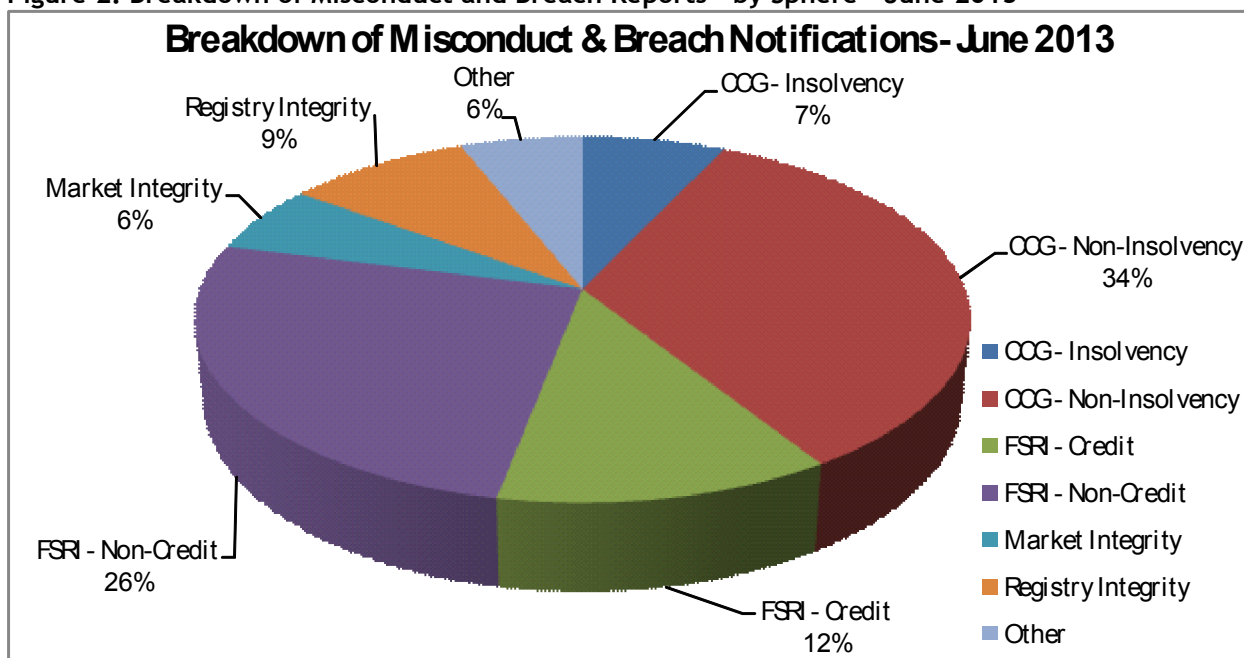
It has also become apparent that Corporate Governance issues have declined compared with the 2011-12 year. Corporate Governance issues account for 40% of matters this year compared with 45% last year.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between July 2012 and June 2013 and Figure 2 shows the breakdown for June 2013.

**Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- July 2012 - June 2013**



**Figure 2: Breakdown of Misconduct and Breach Reports - by Sphere - June 2013**



**Table 2: Corporations / Corporate Governance - Top 5 issues for each time period, sorted by current YTD**

	2012 - 2013					2012 - 2013 May - Jun Breakdown			2011 - 2012	
Keyword Category	Full Year	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Apr	May	Jun	Apr-Jun	Full Year
EXAD assistance request (RATA / books & records).	11%	9%	11%	13%	12%	11%	14%	12%	8%	10%
Contractual issues.*	5%	8%	5%	5%	3%	3%	4%	3%	5%	6%
Insolvent trading - unlisted.	4%	5%	3%	3%	3%	2%	3%	3%	7%	6%
Insolvency Practitioner Misconduct	3%	2%	4%	4%	3%	3%	4%	3%	3%	3%
Directors' duties.	2%		2%				3%	3%	3%	3%
Internal dispute.		2%		2%	3%	3%				
Other corporations / corporate governance misconduct.										
Lodging false or misleading documents.										
Total #	13290	3842	3114	3163	3171	1060	1126	985	3600	14366

\*Includes general complaints about non-provision of goods & services, quality of goods & services

Table 2 shows that the top 4 CCG issues have remained relatively stable since July 2011, with various issues competing for fifth place. The percentage of EXAD assistance requests, which had increased on each of the last three quarters (from 9% to 13%), appears to have levelled off at 12% last quarter. It is too soon to tell whether these requests will continue to come in at the current level, or if they will now start to decline to their previous level of around 9% a quarter.

The full list of issues for April to June 2013 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Top 5 issues for each time period, sorted by current YTD**

	2012 - 2013					2012 - 2013 May - Jun Breakdown			2011 - 2012	
Keyword Category	Full Year	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Apr	May	Jun	Apr-Jun	Full Year
Credit	16%	16%	16%	19%	14%	18%	12%	12%	21%	16%
Unlicensed / Unregistered	5%	7%	5%	4%	5%	4%	5%	6%		
Managed Investment Scheme	3%	6%	3%	2%	2%	3%	1%	2%	2%	4%
Advisers	2%	2%	2%	3%	2%	2%	1%	2%	7%	10%
Scams	2%	3%	2%	1%	1%	1%	1%	2%	4%	4%
Insurance									1%	1%
Superannuation							2%			
Total #	13290	3842	3114	3163	3171	1060	1126	985	3600	14366

Table 3 shows that shows that the top 4 FSRI issues have remained relatively stable since July 2011, with various issues competing for fifth place. As indicated on page 1 of this report, the percentage of credit matters received last quarter was substantially less than the previous quarter. If, as we expect, these matters follow an annual cycle, then we would expect to see an increase in the percentage of these matters received during the current quarter.

The full list of issues for April to June 2013 is detailed in Appendix A.

**Table 4: Market Integrity - Top 5 issues for each time period, sorted by current YTD**

Keyword Category	2012 - 2013					2012 - 2013 May - Jun Breakdown			2011 - 2012	
	Full Year	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Apr	May	Jun	Apr-Jun	Full Year
Market Manipulation.	1%	1%	2%	1%	2%	2%	2%	2%	1%	1%
Insider Trading.	1%	1%	1%	1%	1%	1%	1%	0%	1%	1%
Continuous Disclosure Listed.	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Misleading Statements.	1%	1%	2%	1%	1%	1%	1%	1%	1%	1%
Market Integrity Rules.	1%	1%	0%	0%	1%	1%	1%			1%
Director's Interest Notification.									0%	
Substantial Shareholding Notification.								0%		
Total #	13290	3842	3114	3163	3171	1060	1126	985	3600	14366

Table 4 shows that shows that the top 4 MI issues have remained relatively stable since July 2011, with only minor variation for the fifth place.

NOTE: A 0% value in the table above indicates that the category was one of the top 5 issues raised in the MI sphere for that time period, but the percentage value was less than 0.5%. A blank cell indicates that the category was not in the top 5 issues raised in the MI sphere for that time period.

The full list of issues for April to June 2013 is detailed in Appendix A.

## Appendix A Misconduct & Breach reporting Reports Received between April and June 2013

Misconduct & Breach reporting Reports Received between April and June 2013							
Activity Id			April	May	June	Total(Mo	
Corporations / Corporate Governance	Insolvency	CCG - insolvent trading - unlisted.	26	33	37	96	
		CCG - avoiding employee entitlements.	14	28	19	61	
		CCG - phoenix activity.	11	22	16	49	
		CCG - insolvent trading - listed.	1	1	2	4	
		Insolvency	52	84	74	210	
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - failing to act in creditors'	6	16	7	29	
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	8	9	3	20	
		CCG - insolvency practitioner misconduct - excessive remuneration /	1	3	7	11	
		CCG - insolvency practitioner misconduct - commercial decisions.	4	3	3	10	
		CCG - insolvency practitioner misconduct - inadequate investigations /	2	4		6	
		CCG - insolvency practitioner misconduct - conflict of interest / lack of	3		1	4	
		CCG - insolvency practitioner misconduct - favouring directors or related	1	1	2	4	
		CCG - insolvency practitioner misconduct - inadequate reporting to	1	2	1	4	
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor		2	1	3	
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix	1	1		2	
		CCG - insolvency practitioner misconduct - conflict of interest / lack of			1	1	
		CCG - insolvency practitioner misconduct - failing to act in creditors'			1	1	
		CCG - insolvency practitioner misconduct - fraud.	1			1	
		Insolvency Practitioner Misconduct	28	41	27	96	
	Non-Insolvency	CCG - EXAD assistance request (RATA / books & records).	120	156	110	386	
		CCG - contractual issues.	34	44	28	106	
		CCG - directors' duties.	25	36	21	82	
		CCG - internal dispute.	31	14	19	64	
		CCG - lodging false or misleading documents.	19	18	21	58	
		CCG - other corporations / corporate governance misconduct.	11	13	29	53	
		CCG - managing whilst disqualified.	16	12	10	38	
		CCG - meetings of members.	11	6	6	23	
		CCG - shareholders' rights.	6	12	5	23	
		CCG - director disqualification.	4	10	8	22	
		CCG - non lodgement of financial reports.	10	6	5	21	
		CCG - fraud by officer / misappropriation of company funds.	7	2	8	17	
		CCG - other corporations / corporate governance fraud.	4	6	7	17	
		Auditor breach report - qualified audit report / disclaimer of opinion.	5	2	5	12	
		CCG - other financial reporting.	1	6	5	12	
		CCG - illegal fundraising - illegal offer of debentures / securities without	2	7	2	11	
		CCG - related party transaction - disclosure.	4	4	3	11	
		CCG - disclosure - prospectus / offer information statement / shares &	2	5	1	8	
		CCG - takeover.	5	3		8	
		CCG - offences by officers (s471A, s590, s596).	2	2	3	7	
		CCG - auditor misconduct.	2	1	3	6	
		Auditor breach report - going concern.	2		3	5	
		CCG - illegal fundraising - advertising / hawking securities.	2	2	1	5	
		Auditor breach report - non-compliance with accounting standards.	2	2		4	
		CCG - buybacks / capital reduction.	1	1		2	
		CCG - schemes of arrangement.	2			2	
		CCG - executive remuneration.		1		1	
		CCG - related party transactions - conflicts of interest.			1	1	
		CCG - victimisation of whistleblower.		1		1	
		Non-Insolvency	330	372	304	1006	
Corporations / Corporate Governance			410	497	405	1312	



Financial Services / Retail Investors	Advisers	FSRI - advisers - quality of advice - other.	6	3	6	15
		FSRI - advisers - fraud.	6		4	10
		FSRI - advisers - fees and charges / commissions.	5	3	1	9
		FSRI - advisers - quality of advice - SMSF.	1	3	2	6
		FSRI - advisers - quality of advice - superannuation.		2	4	6
		FSRI - advisers - performance of investment.	1	3	1	5
		FSRI - advisers - advertising.	4			4
		FSRI - advisers - FSG / SOA.	1	2		3
		FSRI - advisers - conflict of interest.	1			1
		FSRI - advisers - licence obligations - s912A general obligations.	1			1
		<b>Advisers</b>	<b>26</b>	<b>16</b>	<b>18</b>	<b>60</b>
	Credit	FSRI - credit - complaint about EDR scheme.	2	2	2	6
		<b>Credit</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>6</b>
	Credit (ADI)	FSRI - credit (ADI) - fraud.	5	2	7	14
		FSRI - credit (ADI) - licence obligations - s47 general obligations.	10	3		13
		FSRI - credit (ADI) - debt collection / debtor harassment / debt recovery.	1	7	2	10
		FSRI - credit (ADI) - misleading or deceptive conduct.	3	3	2	8
		FSRI - credit (ADI) - other.	3	1	4	8
		FSRI - credit (ADI) - responsible lending.	3	2	1	6
		FSRI - credit (ADI) - unlicensed conduct.	4	2		6
		FSRI - credit (ADI) - unconscionable conduct.	2		3	5
		FSRI - credit (ADI) - fees and charges / interest rates.	1	1	2	4
		FSRI - credit (ADI) - personal loans.	2		1	3
		FSRI - credit (ADI) - IDR process.	1	1		2
		FSRI - credit (ADI) - credit cards / store cards.		2		2
		FSRI - credit (ADI) - hardship.		1	1	2
		FSRI - credit (ADI) - home loans.	1		1	2
		FSRI - credit (ADI) - small business lending.		2		2
		FSRI - credit (ADI) - disclosure.		1		1
		FSRI - credit (ADI) - fees and interest rates.	1			1
		FSRI - credit (ADI) - investment loans.	1			1
		FSRI - credit (ADI) - unfair contract terms.		1		1
		<b>Credit (ADI)</b>	<b>38</b>	<b>29</b>	<b>24</b>	<b>91</b>
	Credit (non-ADI)	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	69	40	28	137
		FSRI - credit (non-ADI) - debt collection / debtor harassment / debt	20	15	10	45
		FSRI - credit (non-ADI) - unlicensed conduct.	16	12	12	40
		FSRI - credit (non-ADI) - other.	20	4	2	26
		FSRI - credit (non-ADI) - misleading or deceptive conduct.	5	9	5	19
		FSRI - credit (non-ADI) - fraud.	8	5	3	16
		FSRI - credit (non-ADI) - responsible lending.	4	4	5	13
		FSRI - credit (non-ADI) - unconscionable conduct.	3	3	4	10
		FSRI - credit (non-ADI) - advertising.	2	2	5	9
		FSRI - credit (non-ADI) - home loans.	2	1	5	8
		FSRI - credit (non-ADI) - fees and charges / interest rates.		2	3	5
		FSRI - credit (non-ADI) - Code avoidance.	1	1	1	3
		FSRI - credit (non-ADI) - IDR process.	1		2	3
		FSRI - credit (non-ADI) - investment loans.	1		2	3
		FSRI - credit (non-ADI) - personal loans.	1	1	1	3
		FSRI - credit (non-ADI) - unfair contract terms.	2		1	3
		FSRI - credit (non-ADI) - credit cards / store cards.		1	1	2
		FSRI - credit (non-ADI) - hardship.		2		2
		FSRI - credit (non-ADI) - disclosure.	1			1
		FSRI - credit (non-ADI) - small business lending.		1		1
		<b>Credit (non-ADI)</b>	<b>156</b>	<b>103</b>	<b>90</b>	<b>349</b>







## Stakeholder Services

Financial Services / Retail Investors	Deposit Takers	FSRI - deposit takers - account.	2	2	5	9
		<b>Deposit Takers</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>9</b>
	General	FSRI - general - risk management / compliance systems.	48	43	40	131
		FSRI - general - provide financial services efficiently, honestly, fairly.	36	49	37	122
		FSRI - general - supervision of authorised and other representatives.	8	13	18	39
		FSRI - general - misleading or deceptive conduct.	7	9	3	19
		FSRI - general - complaint about EDR scheme (not credit).	2	4	7	13
		FSRI - general - false or misleading representations.	7	3	2	12
		FSRI - general - unconscionable conduct.		4	6	10
		FSRI - general - fraud.	3	1	2	6
		FSRI - general - FOS or COSL expulsion.		1	4	5
		FSRI - general - IDR process of licensee.		2	2	4
		FSRI - general - training and competence.	2	1		3
		FSRI - general - conflicts of interest.	1	1		2
		Breach Report - disclosure.	1			1
		Breach Report - failure to lodge.		1		1
		FSRI - general - breach of EU or Court order.			1	1
		<b>General</b>	<b>115</b>	<b>132</b>	<b>122</b>	<b>369</b>
	Insurance	FSRI - insurance - disclosure.	4	4	5	13
		FSRI - insurance - claims.	3	2	4	9
		FSRI - insurance - motor vehicle insurance.	1	1	2	4
		FSRI - insurance - other.		2	1	3
		FSRI - insurance - life insurance.			2	2
		FSRI - insurance - advertising.		1		1
		FSRI - insurance - home and contents insurance.			1	1
		<b>Insurance</b>	<b>8</b>	<b>10</b>	<b>15</b>	<b>33</b>
	Managed Investment Scheme	FSRI - managed investment scheme - fees and charges.	22	1	2	25
		FSRI - managed investment scheme - compliance plan.	4		6	10
		FSRI - managed investment scheme - other.	2	4	4	10
		FSRI - managed investment scheme - member reporting.		7	2	9
		FSRI - managed investment scheme - frozen fund.	2		2	4
		FSRI - managed investment scheme - PDS.		3		3
		FSRI - managed investment scheme - related party transactions.	2		1	3
		FSRI - managed investment scheme - timeshare.		1	2	3
		FSRI - managed investment scheme - unit pricing.	2		1	3
		FSRI - managed investment scheme - fraud.	1			1
		FSRI - managed investment scheme - takeover / control / meetings.			1	1
		<b>Managed Investment Scheme</b>	<b>35</b>	<b>16</b>	<b>21</b>	<b>72</b>
	Other	FSRI - other financial services / retail investors misconduct.	1	1		2
		FSRI - providing a financial service without a licence.			1	1
		<b>Other</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>3</b>
	Other Product	FSRI - other product - margin lending.	1			1
		FSRI - other product - non-cash payments.			1	1
		<b>Other Product</b>	<b>1</b>		<b>1</b>	<b>2</b>
	Scams	FSRI - sports arbitrage / gambling scheme.	6	11	4	21
		FSRI - scams - money transfer schemes (other fraud).	3	2	1	6
		FSRI - scams - fake debt / invoices.	2	2	1	5
		FSRI - scams - Nigerian.	2	1	1	4
		FSRI - scams - fake credit / loans.			1	1
		FSRI - scams - identity theft.			1	1
		FSRI - scams - lottery.			1	1
		FSRI - scams - phishing.			1	1
		<b>Scams</b>	<b>13</b>	<b>16</b>	<b>11</b>	<b>40</b>





Financial Services / Retail Investors	Superannuation	FSRI - superannuation - fees and charges.	1	9		10
		FSRI - superannuation - SMSF.	4	2	1	7
		FSRI - superannuation - disclosure.	2	1	2	5
		FSRI - superannuation - advertising.		2	2	4
		FSRI - superannuation - account administration / payment issues.		3		3
		FSRI - superannuation - illegal early access.		1	2	3
		FSRI - superannuation - performance of fund.	1		1	2
		FSRI - superannuation - other.			1	1
		<b>Superannuation</b>	<b>8</b>	<b>18</b>	<b>9</b>	<b>35</b>
	Unlicensed / Unregistered	FSRI - unlicensed financial services.	18	27	15	60
		FSRI - unlicensed financial services - overseas cold calling.	5	14	13	32
		FSRI - unregistered managed investment scheme.	6	3	2	11
		FSRI - unlicensed financial services - holding out.	4	2	4	10
		FSRI - unlicensed financial services - carbon credit / emission units.	1	7	1	9
		FSRI - unlicensed financial services - onshore cold calling.	3	2	4	9
		FSRI - unlicensed financial services - breach of banning order.	2	2	4	8
		FSRI - unlicensed financial services - trading software.	2		4	6
		FSRI - unregistered managed investment scheme - ponzi.	1	1	4	6
		FSRI - unlicensed financial services - wealth creation seminar.			5	5
		FSRI - unregistered managed investment scheme - horse racing syndicate.	1	2		3
		FSRI - unlicensed financial services - acting outside the scope.	2			2
		FSRI - unlicensed financial services - hawking of financial products.	1	1		2
		<b>Unlicensed / Unregistered</b>	<b>46</b>	<b>61</b>	<b>56</b>	<b>163</b>
	Unsolicited Offer	FSRI - unsolicited offers.		2	1	3
		<b>Unsolicited Offer</b>		<b>2</b>	<b>1</b>	<b>3</b>
	<b>Financial Services / Retail Investors</b>		<b>451</b>	<b>408</b>	<b>376</b>	<b>1235</b>
Registry Integrity	Registry Integrity	REG - address offence.	31	45	31	107
		REG - business names - unregistered.	30	42	27	99
		REG - carrying on business using Ltd NL or Pty in name.	7	18	5	30
		REG - business names - similar names.	6	11	6	23
		REG - business names - other.	4	5	4	13
		REG - other.	6	5	2	13
		REG - never consented to be a director.	7	2	2	11
		REG - no directors.	2	4	5	11
		REG - other registry fraud.	3	5	3	11
		REG - request to halt deregistration.	2	3	2	7
		REG - business names - disqualified person.	1	1		2
		<b>Registry Integrity</b>	<b>99</b>	<b>141</b>	<b>87</b>	<b>327</b>
	Market Integrity	MI - market manipulation.	15	17	16	48
		MI - insider trading.	13	11	9	33
		MI - continuous disclosure listed.	10	10	10	30
		MI - MI rules 5,11,1 suspicious activity report.	7	4	8	19
		MI - misleading statements.	6	9	4	19
		MI - market integrity rules.	6	1	10	17
		MI - director's interest notification.	4	2		6
		MI - substantial shareholding notification.	1	1	2	4
		MI - market participant / stockbroker misconduct.		2	1	3
		MI - short selling.			1	1
		<b>Market Integrity</b>	<b>62</b>	<b>57</b>	<b>61</b>	<b>180</b>
Other	Other	AUSTRAC - suspicious matter report - other.	16	13	24	53
		AUSTRAC - suspicious matter report - corporate fraud.	15	2	17	34
		OTH - other.	2	4	7	13
		AUSTRAC - suspicious matter report - credit application.	2	1	2	5
		AUSTRAC - suspicious matter report - gambling.	1	1	3	5
		AUSTRAC - suspicious matter report - unlicensed.	1		1	2
		OTH - complaint about other government agency.	1	1		2
		OTH - money laundering.			1	1
		OTH - suspicious international capital flow.			1	1
		OTH - unauthorised use of ASIC logo.		1		1
	<b>Other</b>		<b>38</b>	<b>23</b>	<b>56</b>	<b>117</b>
<b>Total(FE Sphere)</b>			<b>1060</b>	<b>1126</b>	<b>985</b>	<b>3171</b>

# Misconduct & Breach Reporting

## Risk & Trend Analysis - 1 July 2013 to 30 September 2013

This report contains a snapshot of the 3199 misconduct and breach reports received between 1 July 2013 and 30 September 2013.

Where necessary, data for:

- the full 2012-2013 financial year
- the July to September 2012 quarter,
- the individual months from July 2013 to September 2013
- the July 2013 to September 2013 quarter, and
- the 2013-2014 financial year to date

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from July to September 2013, according to financial economy sphere. Data for the current financial year to date, current quarter and current month are highlighted in bold print.

**Table 1: Sphere analysis**

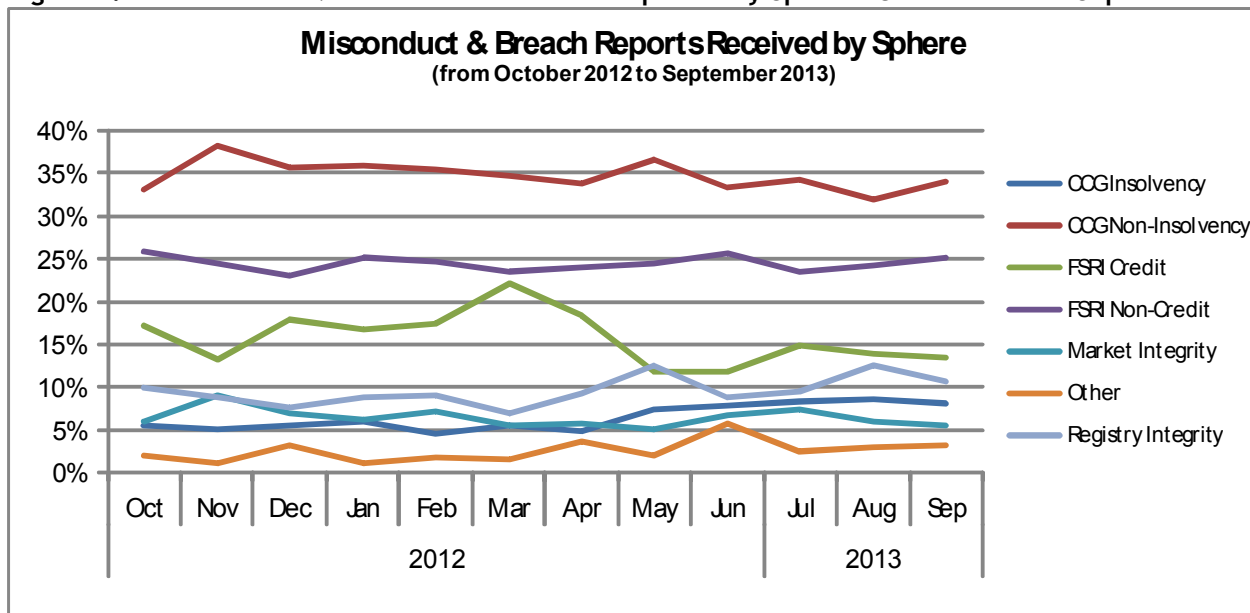
Sphere	2013 - 2014					2013 - 2014 Jul - Sep Breakdown			2012 - 2013	
	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul	Aug	Sep	Jul-Sep	Full Year
Corporations / Corporate Governance										
Insolvency *	8%	8%				8%	9%	8%	7%	6%
Non-Insolvency	33%	33%				34%	32%	34%	32%	34%
Financial Services / Retail Investors										
Credit	14%	14%				15%	14%	14%	16%	16%
Non-Credit	24%	24%				23%	24%	25%	28%	25%
Market Integrity	6%	6%				7%	6%	5%	6%	6%
Registry Integrity	11%	11%				9%	12%	11%	9%	9%
Other	3%	3%				2%	3%	3%	3%	2%
Total #	3199	3199				113 2	105 4	1013	3842	1328 8

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

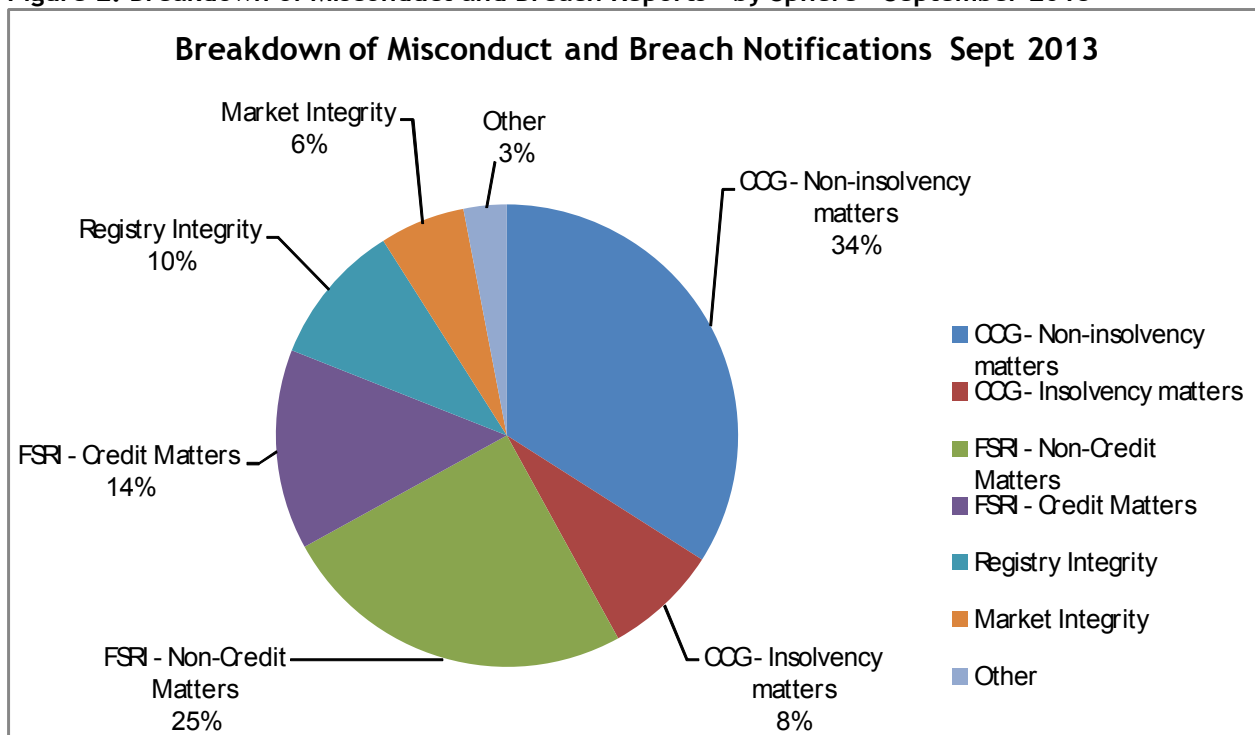
The last quarter was relatively quiet with no noteworthy changes in the pattern of matters received within each sphere. The downward trend in Credit matters that we mentioned in the last quarterly report has levelled out. We expect to see Credit matters starting to trend upwards in the current quarter, probably peaking in the first quarter of 2014.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between October 2012 and September 2013 and Figure 2 shows the breakdown for September 2013.

**Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- October 2012 - September 2013**



**Figure 2: Breakdown of Misconduct and Breach Reports - by Sphere - September 2013**



**Table 2: Corporations / Corporate Governance - Top 5 issues for each time period, sorted by current YTD**

Sphere	2013 - 2014					2013 - 2014 Jul - Sep Breakdown			2012 - 2013	
	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul	Aug	Sep	Jul-Sep	Full Year
EXAD assistance request (RATA / books & records).	12%	12%				12%	11%	14%	9%	11%
Contractual issues.	4%	4%				5%	4%	4%	8%	5%
Insolvent trading - unlisted.	4%	4%				5%	4%	2%	5%	4%
Phoenix activity.	3%	3%					3%	5%		
Directors' duties.	3%	3%				3%	3%	2%	2%	2%
Insolvency Practitioner Misconduct	3%	3%				3%		2%	2%	3%
Internal dispute.								2%	2%	2%
Avoiding employee entitlements.										
Other corporations / corporate governance misconduct.								2%		
<b>Total #</b>	<b>3199</b>	<b>3199</b>				<b>1132</b>	<b>1054</b>	<b>1013</b>	<b>3842</b>	<b>13288</b>

\*Includes general complaints about non-provision of goods & services, quality of goods & services

The top 3 CCG issues have remained relatively stable since July 2011, with various issues competing for fourth and fifth place. The high levels of Phoenix activity in August and September are mostly the result of a program being carried out by Small Business Compliance and Deterrence.

The full list of issues for July to September 2013 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Top 5 issues for each time period, sorted by current YTD**

Keyword Category	2013 - 2014					2013 - 2014 Jul - Sep Breakdown			2012 - 2013	
	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul	Aug	Sep	Jul-Sep	Full Year
Credit	14%	14%				15%	14%	14%	16%	16%
Unlicensed / Unregistered	5%	5%				6%	5%	5%	7%	5%
Managed Investment Scheme	2%	2%				2%	2%	2%	6%	3%
Advisers	2%	2%				2%	2%	2%	2%	2%
Superannuation	2%	2%				2%	2%	2%		
Scams							2%		3%	2%
<b>Total #</b>	<b>3199</b>	<b>3199</b>				<b>1132</b>	<b>1054</b>	<b>1013</b>	<b>3842</b>	<b>13288</b>

The top 4 FSRI issues have remained relatively stable since July 2011, with some minor variation for fifth place. The number of Credit matters received has declined by about 5 percentage points since mid-2011, when ASIC took on responsibility for such matters, however, this drop also appears to be superimposed on a periodic trend that we expect is about to commence an upswing. For this reason we expect that the number of Credit matters will increase next quarter.

The full list of issues for July to September 2013 is detailed in Appendix A.



**Table 4: Market Integrity - Top 5 issues for each time period, sorted by current YTD**

	2013 - 2014					2013 - 2014 Jul - Sep Breakdown			2012 - 2013	
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Jul	Aug	Sep	Jul-Sep	Full Year
MI - misleading statements.	1%	1%				2%	1%	1%	1%	1%
MI - market manipulation.	1%	1%				2%	1%	1%	1%	2%
MI - insider trading.	1%	1%				1%	1%	1%	1%	1%
MI - continuous disclosure listed.	1%	1%				1%	1%	1%	1%	1%
MI - MI rules 5,11,1 suspicious activity	1%	1%				1%		1%		
MI - market integrity rules.	1%	1%					1%		1%	1%
MI - director's interest notification.								1%		
Total #	3199	3199				1132	1054	1013	3842	13288

The top 4 MI issues have remained relatively stable since July 2011, with only minor variation for the fifth place.

The full list of issues for July to September 2013 is detailed in Appendix A.

## Appendix A Misconduct &amp; Breach Reporting Reports Received between July &amp; September 2013

Misconduct & Breach Reporting Reports Received Between July and September 2013						
Sphere	Complaint Sub-Group	Keywords	Jul	Aug	Sep	Qtr Total
Corporations / Corporate Governance	Insolvency	CCG - insolvent trading - unlisted.	51	39	24	114
		CCG - phoenix activity.	22	27	48	97
		CCG - avoiding employee entitlements.	19	23	11	53
		CCG - insolvent trading - listed.	2	1		3
		<b>Insolvency</b>	<b>94</b>	<b>90</b>	<b>83</b>	<b>267</b>
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg, poor realisation of assets).	11	6	5	22
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	3	6	1	10
		CCG - insolvency practitioner misconduct - inadequate investigations / inadequate reporting.	6	2	2	10
		CCG - insolvency practitioner misconduct - commercial decisions.	4	1	3	8
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence / inadequate DIRRI.	3	3	2	8
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.	3	4	1	8
		CCG - insolvency practitioner misconduct - excessive remuneration / inadequate disclosure of remuneration.	2	1	3	6
		CCG - insolvency practitioner misconduct - favouring directors or related parties.	1		3	4
		CCG - insolvency practitioner misconduct - fraud.	1	1		2
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix activity.	1		1	2
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor meetings.			1	1
		<b>Insolvency Practitioner Misconduct</b>	<b>35</b>	<b>24</b>	<b>22</b>	<b>81</b>
	Non-Insolvency	CCG - EXAD assistance request (RATA / books & records).	140	118	139	397
		CCG - contractual issues.	54	43	36	133
		CCG - directors' duties.	38	36	16	90
		CCG - internal dispute.	28	20	24	72
		CCG - other corporations / corporate governance misconduct.	13	17	21	51
		CCG - lodging false or misleading documents.	15	14	15	44
		CCG - non lodgement of financial reports.	11	12	12	35
		CCG - managing whilst disqualified.	14	5	7	26
		CCG - shareholders' rights.	5	10	4	19
		Auditor breach report - qualified audit report / disclaimer of opinion.	6	1	12	19
		CCG - director disqualification.	3	7	4	14
		CCG - other financial reporting.	6	7	1	14
		CCG - other corporations / corporate governance fraud.	4	5	2	11
		Auditor breach report - going concern.	1	6	4	11
		CCG - meetings of members.	1	2	3	6
		CCG - illegal fundraising - illegal offer of debentures / securities without prospectus.	4	1	1	6
		CCG - disclosure - prospectus / offer information statement / shares & debentures.	1	2	3	6
		CCG - auditor misconduct.	1		4	5
		CCG - takeover.	1	1	3	5
		CCG - related party transactions - conflicts of interest.	2	1	2	5
		CCG - fraud by officer / misappropriation of company funds.	1	1	2	4
		CCG - offences by officers (s471A, s590, s596).	1	2	1	4
		CCG - illegal fundraising - advertising / hawking securities.	1	2		3
		CCG - related party transaction - disclosure.			3	3
		Auditor breach report - non-compliance with accounting standards.			1	1
		CCG - schemes of arrangement.	1			1
		CCG - EXAD assistance request (RATA, books & records).			1	1
		CCG - fraud by officer.			1	1
		<b>Non-Insolvency</b>	<b>352</b>	<b>313</b>	<b>322</b>	<b>987</b>
	<b>Corporations / Corporate Governance</b>		<b>481</b>	<b>427</b>	<b>427</b>	<b>1335</b>



Financial Services / Retail Investors	Advisers	FSRI - advisers - quality of advice - other.	5	7	9	21
		FSRI - advisers - FSG / SOA.	4	3	3	10
		FSRI - advisers - fraud.	2	1	4	7
		FSRI - advisers - advertising.	1	1	4	6
		FSRI - advisers - quality of advice - SMSF.	2	3	1	6
		FSRI - advisers - quality of advice - non-superannuation investment.		2	1	3
		FSRI - advisers - quality of advice - superannuation.	2		1	3
		FSRI - advisers - fees and charges / commissions.		1	1	2
		FSRI - advisers - performance of investment.	1			1
		FSRI - advisers - quality of advice - insurance.	1			1
		FSRI - advisers - supervision of authorised and other representatives.	1			1
		<b>Advisers</b>	<b>19</b>	<b>18</b>	<b>24</b>	<b>61</b>
	Credit	FSRI - credit - complaint about EDR scheme.	1	6	4	11
		<b>Credit</b>	<b>1</b>	<b>6</b>	<b>4</b>	<b>11</b>
	Credit (ADI)	FSRI - credit (ADI) - licence obligations - s47 general obligations.	6	3	5	14
		FSRI - credit (ADI) - unconscionable conduct.	5	5	4	14
		FSRI - credit (ADI) - fraud.	1	3	3	7
		FSRI - credit (ADI) - responsible lending.	4	1	2	7
		FSRI - credit (ADI) - unlicensed conduct.	2	4		6
		FSRI - credit (ADI) - misleading or deceptive conduct.	1	3	1	5
		FSRI - credit (ADI) - hardship.	2	1		3
		FSRI - credit (ADI) - home loans.		2	1	3
		FSRI - credit (ADI) - IDR process.	2		1	3
		FSRI - credit (ADI) - advertising.	2	1		3
		FSRI - credit (ADI) - fees and charges / interest rates.	1	1		2
		FSRI - credit (ADI) - credit cards / store cards.	1	1		2
		FSRI - credit (ADI) - unsolicited credit / limit increase.		1	1	2
		FSRI - credit (ADI) - personal loans.			1	1
		FSRI - credit (ADI) - disclosure.	1			1
		FSRI - credit (ADI) - investment loans.			1	1
		FSRI - credit (ADI) - debtor harassment.		1		1
		<b>Credit (ADI)</b>	<b>35</b>	<b>33</b>	<b>22</b>	<b>90</b>
	Credit (non-ADI)	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	28	33	28	89
		FSRI - credit (non-ADI) - other.	35	16	9	60
		FSRI - credit (non-ADI) - unlicensed conduct.	18	18	17	53
		FSRI - credit (non-ADI) - debt collection / debtor harassment / debt recovery.	12	9	18	39
		FSRI - credit (non-ADI) - misleading or deceptive conduct.	13	4	13	30
		FSRI - credit (non-ADI) - fees and charges / interest rates.	5	5	4	14
		FSRI - credit (non-ADI) - responsible lending.	1	7	3	11
		FSRI - credit (non-ADI) - unconscionable conduct.	6	2	2	10
		FSRI - credit (non-ADI) - fraud.	4	3	1	8
		FSRI - credit (non-ADI) - unfair contract terms.	1	4	2	7
		FSRI - credit (non-ADI) - IDR process.	1		3	4
		FSRI - credit (non-ADI) - disclosure.	1	2	1	4
		FSRI - credit (non-ADI) - advertising.	1	2		3
		FSRI - credit (non-ADI) - personal loans.	1		2	3
		FSRI - credit (non-ADI) - short term / payday loans.		1	2	3
		FSRI - credit (non-ADI) - Code avoidance.	1		2	3
		FSRI - credit (non-ADI) - hardship.		1	1	2
		FSRI - credit (non-ADI) - home loans.			2	2
		FSRI - credit (non-ADI) - investment loans.	2			2
		FSRI - credit (non-ADI) - credit cards / store cards.	1			1
		FSRI - credit (non-ADI) - loan re-financing / re-draw / switching.	1			1
		FSRI - credit (non-ADI) - unsolicited credit / limit increase.			1	1
		FSRI - credit (non-ADI) - reverse mortgage.	1			1
		<b>Credit (non-ADI)</b>	<b>133</b>	<b>107</b>	<b>111</b>	<b>351</b>

## Stakeholder Services

Financial Services / Retail Investors	Deposit Takers	FSRI - deposit takers - account.	3	5	1	9
		<b>Deposit Takers</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>9</b>
	General	FSRI - general - provide financial services efficiently, honestly, fairly.	37	47	36	120
		FSRI - general - risk management / compliance systems.	26	31	40	97
		FSRI - general - supervision of authorised and other representatives.	7	7	7	21
		FSRI - general - false or misleading representations.	6	3	11	20
		FSRI - general - FOS or COSL expulsion.	10	6	2	18
		FSRI - general - misleading or deceptive conduct.	10	4	3	17
		FSRI - general - IDR process of licensee.	3	4	1	8
		FSRI - general - complaint about EDR scheme (not credit).	4		2	6
		FSRI - general - fraud.	2	1	2	5
		FSRI - general - training and competence.	4		1	5
		FSRI - general - unconscionable conduct.		3	1	4
		FSRI - general - disclosure other products.	2	1	1	4
		FSRI - general - conflicts of interest.	1	2	1	4
		FSRI - general - unfair contract term.			1	1
		Breach Report - adequate risk management.			1	1
		<b>General</b>	<b>112</b>	<b>109</b>	<b>110</b>	<b>331</b>
	Insurance	FSRI - insurance - disclosure.	2	5	2	9
		FSRI - insurance - claims.	4		1	5
		FSRI - insurance - motor vehicle insurance.	1	3		4
		FSRI - insurance - advertising.	2	2		4
		FSRI - insurance - other.	1	2		3
		FSRI - insurance - life insurance.			1	1
		FSRI - insurance - funeral insurance.	1			1
		FSRI - insurance - sales.		1		1
		FSRI - insurance - consumer credit insurance.			1	1
		<b>Insurance</b>	<b>11</b>	<b>13</b>	<b>5</b>	<b>29</b>
	Investment Bank	FSRI - investment bank and / or investment bank products.			1	1
		<b>Investment Bank</b>			<b>1</b>	<b>1</b>
	Managed Investment Scheme	FSRI - managed investment scheme - other.	5	11	6	22
		FSRI - managed investment scheme - compliance plan.	4	1	9	14
		FSRI - managed investment scheme - frozen fund.	6	1	1	8
		FSRI - managed investment scheme - member reporting.	3		3	6
		FSRI - managed investment scheme - unit pricing.	3	1	2	6
		FSRI - managed investment scheme - fees and charges.		4		4
		FSRI - managed investment scheme - PDS.	2	1	1	4
		FSRI - managed investment scheme - takeover / control / meetings.			1	1
		FSRI - managed investment scheme - advertising.		1		1
		<b>Managed Investment Scheme</b>	<b>23</b>	<b>20</b>	<b>23</b>	<b>66</b>
	Other Product	FSRI - other product - non-cash payments.	1	1		2
		FSRI - other product - margin lending.		1		1
		<b>Other Product</b>	<b>1</b>	<b>2</b>		<b>3</b>
	Scams	FSRI - scams - phishing.	7	4	2	13
		FSRI - sports arbitrage / gambling scheme.	2	5	5	12
		FSRI - scams - Nigerian.	1	5	1	7
		FSRI - scams - money transfer schemes (other fraud).	1	2	2	5
		FSRI - scams - identity theft.	2	1		3
		FSRI - scams - money transfer schemes (job opportunity).	2		1	3
		FSRI - scams - fake debt / invoices.		1	1	2
		<b>Scams</b>	<b>15</b>	<b>18</b>	<b>12</b>	<b>45</b>



## Stakeholder Services

Financial Services / Retail Investors	Superannuation	FSRI - superannuation - disclosure.	6	7	7	20	
		FSRI - superannuation - SMSF.	5	2	2	9	
		FSRI - superannuation - account administration / payment issues.	1	3	2	6	
		FSRI - superannuation - other.	2	1	3	6	
		FSRI - superannuation - fees and charges.	1		4	5	
		FSRI - superannuation - advertising.	1	1	3	5	
		FSRI - superannuation - performance of fund.		3		3	
		FSRI - superannuation - illegal early access.	1		1	2	
		FSRI - superannuation - SMSF auditor concerns.			1		
		Superannuation	17	17	23	57	
	Unlicensed / Unregistered	FSRI - unlicensed financial services.	29	15	27	71	
		FSRI - unlicensed financial services - overseas cold calling.	14	15	18	47	
		FSRI - unlicensed financial services - wealth creation seminar.	10	2	1	13	
		FSRI - unlicensed financial services - onshore cold calling.	5	4	2	11	
		FSRI - unregistered managed investment scheme.	1	6	2	9	
		FSRI - unlicensed financial services - holding out.		4	1	5	
		FSRI - unlicensed financial services - trading software.	1	2	2	5	
		FSRI - unregistered managed investment scheme - ponzi.	2	1		3	
		FSRI - unlicensed financial services - carbon credit / emission units.	1	1		2	
		FSRI - unlicensed financial services - breach of banning order.		1	1	2	
			Unlicensed / Unregistered	63	51	54	168
	Unsolicited Offer	FSRI - unsolicited offers.	1	2		3	
		Unsolicited Offer	1	2		3	
Financial Services / Retail Investors		434	401	390	1225		
Market Integrity		Breach Report - market misconduct.			1	1	
					1	1	
	Market Integrity	MI - misleading statements.	24	11	8	43	
		MI - market manipulation.	17	12	8	37	
		MI - insider trading.	11	12	7	30	
		MI - continuous disclosure listed.	8	9	10	27	
		MI - MI rules 5,11,1 suspicious activity report.	11	5	7	23	
		MI - market integrity rules.	5	10	2	17	
		MI - substantial shareholding notification.	4		4	8	
		MI - director's interest notification.			7	7	
		MI - market participant / stockbroker misconduct.	1	3	1	5	
		MI - short selling.	1		1	2	
		MI - market operator misconduct.	1			1	
		MI - securities dealer misconduct.		1		1	
			Market Integrity	83	63	55	201
	Market Integrity		83	63	56	202	
	Other	Other	AUSTRAC - suspicious matter report - other.	11	13	9	33
			OTH - other.	6	7	9	22
			AUSTRAC - suspicious matter report - corporate fraud.	5	9	7	21
AUSTRAC - suspicious matter report - gambling.			1	2	4	7	
AUSTRAC - suspicious matter report - credit application.			1		2	3	
OTH - unauthorised use of ASIC logo.			1	1	1	3	
AUSTRAC - suspicious matter report - unlicensed.			1			1	
OTH - complaint about other government agency.			1			1	
			Other	27	32	32	91
Other		27	32	32	91		
Registry Integrity	Registry Integrity	REG - address offence.	35	48	43	126	
		REG - business names - unregistered.	36	43	30	109	
		REG - business names - similar names.	7	9	6	22	
		REG - carrying on business using Ltd NL or Pty in name.	5	10	6	21	
		REG - other.	8	7	5	20	
		REG - business names - other.	6	5	3	14	
		REG - other registry fraud.	5	4	5	14	
		REG - never consented to be a director.	2	3	2	7	
		REG - request to halt deregistration.	2		5	7	
		REG - no directors.	1	2	2	5	
		REG - business names - disqualified person.			1	1	
			Registry Integrity	107	131	108	346
		Registry Integrity		107	131	108	346
	Total(FE Sphere)		1132	1054	1013	3199	

# Misconduct & Breach Reporting

## Risk & Trend Analysis - 1 October 2013 to 31 December 2013

This report contains a snapshot of the 3188 misconduct and breach reports received between 1 October 2013 and 31 December 2013.

Where necessary, data for:

- the 2013-2014 financial year to date
- the July 2013 to September 2013 quarter, and
- the October 2013 to December 2013 quarter,
- the individual months from October 2013 to December 2013
- the October 2012 to December 2012 quarter,
- the full 2012-2013 financial year

are also included in some tables and charts for comparative purposes.

## 1. Financial Economy sphere analysis

The following table compares the number and percentage of misconduct and breach reports received from October 2013 to December 2013, according to financial economy sphere. Data for the current financial year to date, current quarter and current month are highlighted in bold print.

**Table 1: Sphere analysis**

Sphere	2013 - 2014					2013 - 2014 Oct - Dec Breakdown			2012 - 2013	
	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Oct	Nov	Dec	Oct-Dec	Full Year
Corporations / Corporate Governance										
Insolvency *	<b>8%</b>	8%	<b>8%</b>			9%	9%	<b>7%</b>	5%	6%
Non-Insolvency	<b>34%</b>	33%	<b>36%</b>			37%	36%	<b>33%</b>	36%	34%
Financial Services / Retail Investors										
Credit	<b>13%</b>	14%	<b>12%</b>			11%	10%	<b>14%</b>	16%	16%
Non-Credit	<b>25%</b>	24%	<b>26%</b>			24%	30%	<b>25%</b>	25%	25%
Market Integrity	<b>6%</b>	6%	<b>6%</b>			5%	6%	<b>7%</b>	7%	6%
Registry Integrity	<b>10%</b>	11%	<b>9%</b>			11%	8%	<b>10%</b>	9%	9%
Other	<b>3%</b>	3%	<b>3%</b>			3%	2%	<b>4%</b>	2%	2%
Total # 2013 - 2014	<b>6390</b>	3202	<b>3188</b>			1110	1208	<b>870</b>	3114	13291
Total # 2012 - 2013	6956	3842	3114			1179	1088	847		

\*Insolvency matters include: CCG-insolvent trading listed, unlisted, Phoenix activity and Avoiding employee entitlements.

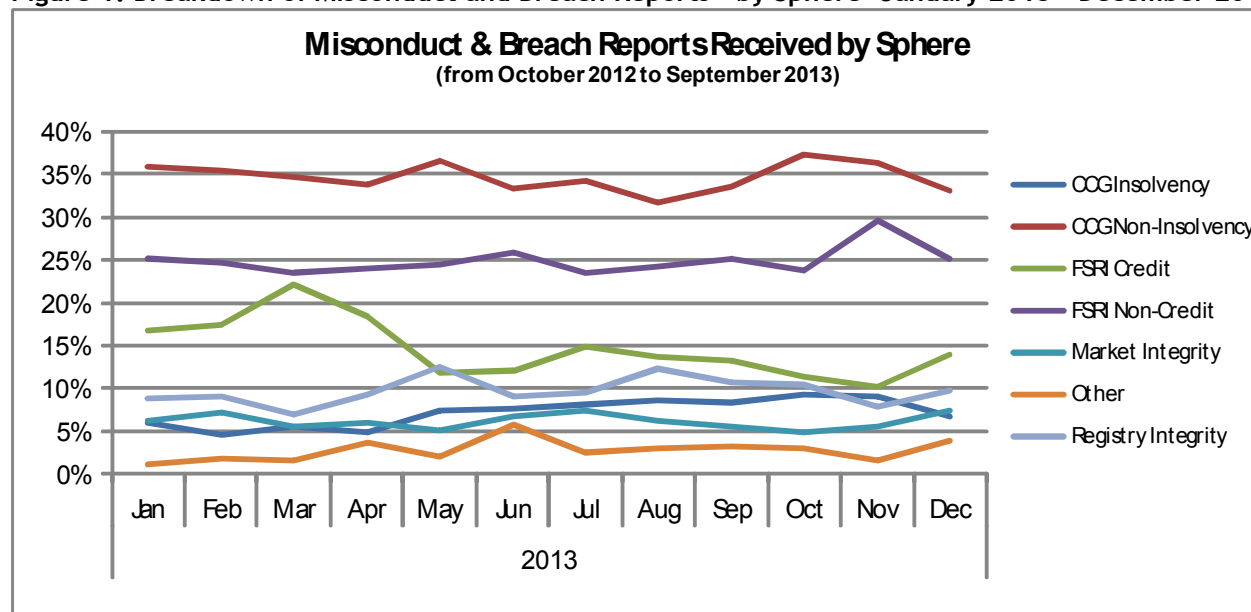
The number of misconduct and breach reports received in the first half of the financial year is approximately 8% less than at the same time last year. However, this drop was essentially confined to the July-Sep quarter, with the number received in this quarter slightly higher than the same quarter last year. Otherwise, the quarter was relatively quiet with no noteworthy changes in the pattern of matters received



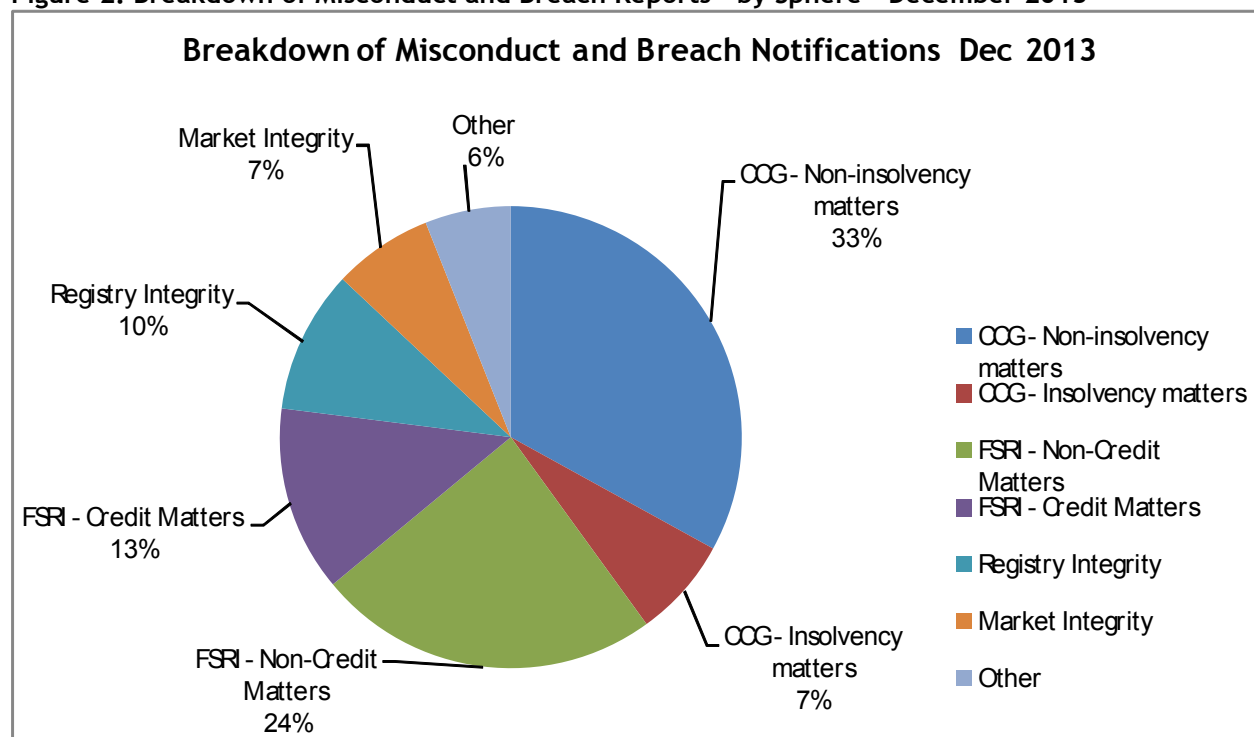
within each sphere. The downward trend in Credit matters, on which we had commented in the previous two quarterly reports, shows some indication of a reversal in December. We expect to see Credit matters continuing to trend upwards during the third quarter of the financial year, then starting to decline in the fourth quarter.

Figure 1 below shows a breakdown of Reports of Misconduct and Breach reports received by ASIC between January 2013 and December 2013 and Figure 2 shows the breakdown for December 2013.

**Figure 1: Breakdown of Misconduct and Breach Reports - by Sphere- January 2013 - December 2013**



**Figure 2: Breakdown of Misconduct and Breach Reports - by Sphere - December 2013**



**Table 2: Corporations / Corporate Governance - Top 5 issues for each time period, sorted by current YTD**

	2013 - 2014					2013 - 2014 Oct - Dec Breakdown			2012 - 2013	
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Oct	Nov	Dec	Oct-Dec	Full Year
EXAD assistance request (RATA / books & records).	12%	12%	11%			12%	11%	9%	11%	11%
Contractual issues.	4%	4%	3%			3%	3%	4%	5%	5%
Phoenix activity.	4%	3%	4%			5%	5%	3%		
Insolvent trading - unlisted.	3%	4%				3%		3%	3%	4%
Insolvency Practitioner Misconduct	3%		3%			4%	3%	3%	4%	3%
Directors' duties.		3%							2%	2%
Other corporations / corporate governance misconduct.			3%				5%			
Total #	6390	3202	3188			1110	1208	870	3114	13291

\*Includes general complaints about non-provision of goods & services, quality of goods & services

The top 3 CCG issues have remained relatively stable since July 2011, with various issues competing for fourth or fifth place. The high levels of Phoenix activity in the current financial year are mostly the result of a program being carried out by Small Business Compliance and Deterrence.

The full list of issues for October to December 2013 is detailed in Appendix A.

**Table 3: Financial Services / Retail Investors - Top 5 issues for each time period, sorted by current YTD**

	2013 - 2014					2013 - 2014 Oct - Dec Breakdown			2012 - 2013	
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Oct	Nov	Dec	Oct-Dec	Full Year
Credit	13%	14%	12%			11%	10%	14%	16%	16%
Unlicensed / Unregistered	5%	5%	5%			5%	5%	4%	5%	5%
Managed Investment Scheme	2%	2%	3%			3%	3%	2%	3%	3%
Advisers	2%	2%	2%			2%	2%	2%	2%	2%
Superannuation	2%	2%	1%			1%		2%		
Scams							1%		2%	2%
Insurance							1%			
Total #	6390	3202	3188			1110	1208	870	3114	13291

The top 4 FSRI issues have remained relatively stable since July 2011, with some minor variation for fifth place. The percentage of Credit matters received has a seasonal trend that peaks in the third quarter of the financial year, so we expect to report an increase in the next quarterly report.

The full list of issues for October to December 2013 is detailed in Appendix A.

**Table 4: Market Integrity - Top 5 issues for each time period, sorted by current YTD**

	2013 - 2014					2013 - 2014 Oct - Dec Breakdown			2012 - 2013	
Keyword Category	YTD	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun	Oct	Nov	Dec	Oct-Dec	Full Year
MI - market manipulation.	1%	1%	1%			1%	1%	1%	2%	2%
MI - insider trading.	1%	1%	1%			1%	1%	2%	1%	1%
MI - misleading statements.	1%	1%	1%			0%	1%		2%	1%
MI - continuous disclosure listed.	1%	1%	1%			1%	1%	1%	1%	1%
MI - market integrity rules.			1%			1%	0%	1%	0%	1%
MI - MI rules 5,11,1 suspicious activity report.	1%	1%					0%	1%		
MI - director's interest notification.								1%		
Total #	6390	3202	3188			1110	1208	870	3114	13291

The top 4 MI issues have remained relatively stable since July 2011, with only minor variation for the fifth place.

**NOTE:** A blank cell indicates that the relevant Keyword Category was not in the top 5 for that time period, and a 0 indicates that the Keyword Category was in the top 5 for that time period but the calculated percentage was less than 0.5%.

The full list of issues for October to December 2013 is detailed in Appendix A.

## Appendix A Misconduct & Breach Reporting Reports Received between Oct 2013 & Dec 2013

Misconduct & Breach Reporting Reports Received Between October and December 2013						
Sphere	Sub-Group	Keywords	Oct	Nov	Dec	Quarter Total
Corporations / Corporate Governance	Insolvency	CCG - avoiding employee entitlements.	15	29	11	55
		CCG - insolvent trading - listed.	2	2	3	7
		CCG - insolvent trading - unlisted.	41	35	23	99
		CCG - phoenix activity.	79	85	34	198
	Insolvency Total		137	151	71	359
	Insolvency Practitioner Misconduct	CCG - insolvency practitioner misconduct - commercial decisions.	3	9	1	13
		CCG - insolvency practitioner misconduct - conflict of interest / lack of independence / inadequate DIRRI.	15	9	6	30
		CCG - insolvency practitioner misconduct - excessive remuneration / inadequate disclosure of remuneration.	1	3	7	11
		CCG - insolvency practitioner misconduct - facilitating illegal phoenix activity.		2	1	3
		CCG - insolvency practitioner misconduct - failing to act in a timely manner.	9	9	1	19
		CCG - insolvency practitioner misconduct - failing to act in creditors' interests (eg poor realisation of assets)	7	4	5	16
		CCG - insolvency practitioner misconduct - favouring directors or related parties.		6	2	8
		CCG - insolvency practitioner misconduct - fraud.	3	1	1	5
		CCG - insolvency practitioner misconduct - inadequate conduct of creditor meetings.	1			1
		CCG - insolvency practitioner misconduct - inadequate investigations / inadequate reporting.	14	13	16	43
		CCG - insolvency practitioner misconduct - inadequate reporting to creditors.	4	5	4	13
	Insolvency Practitioner Misconduct Total		57	61	44	162
	Non-Insolvency	Auditor breach report - non-compliance with accounting standards.	3		4	7
		Auditor breach report - qualified audit report / disclaimer of opinion.	8	1	1	10
		CCG - auditor misconduct.	2	2	2	6
		CCG - buybacks / capital reduction.			1	1
		CCG - continuous disclosure unlisted.	1			1
		CCG - contractual issues.	49	45	36	130
		CCG - director disqualification.	8	4	5	17
		CCG - directors' duties.	38	39	21	98
		CCG - disclosure - prospectus / offer information statement / shares & debentures.	5	2	2	9

		CCG - EXAD assistance request (RATA / books & records).	139	139	79	357	
		CCG - executive remuneration.	1	1	1	3	
		CCG - fraud by officer / misappropriation of company funds.	15	14		29	
		CCG - illegal fundraising - advertising / hawking securities.	3	2		5	
		CCG - illegal fundraising - illegal offer of debentures / securities without prospectus.	27	15	6	48	
		CCG - internal dispute.	19	23	21	63	
		CCG - lodging false or misleading documents.	17	19	14	50	
		CCG - managing whilst disqualified.	20	10	9	39	
		CCG - meetings of members.	8	10	12	30	
		CCG - non lodgement of financial reports.	29	37	16	82	
		CCG - offences by officers (s471A, s590, s596).	2			2	
		CCG - other corporations / corporate governance fraud.	6	3	12	21	
		CCG - other corporations / corporate governance misconduct.	32	68	20	120	
		CCG - other financial reporting.	14	25	24	63	
		CCG - related party transaction - disclosure.	1			1	
		CCG - related party transactions - conflicts of interest.	4	10	2	16	
		CCG - schemes of arrangement.		2		2	
		CCG - shareholders' rights.	6	8	8	22	
		CCG - takeover.	5	1	3	9	
		CCG - victimisation of whistleblower.		2		2	
	Non-Insolvency Total			462	482	299	1243
	Corporations / Corporate Governance Total			656	694	414	1764
	Financial Services / Retail Investors	Advisers	FSRI - advisers - advertising.		4		4
			FSRI - advisers - fees and charges / commissions.	3	5	10	18
FSRI - advisers - fraud.			12	7	8	27	
FSRI - advisers - FSG / SOA.			6	3	3	12	
FSRI - advisers - performance of investment.			2	5		7	
FSRI - advisers - quality of advice - insurance.				2		2	
FSRI - advisers - quality of advice - other.			8	13	4	25	
FSRI - advisers - quality of advice - SMSF.			5	1	2	8	
FSRI - advisers - quality of advice - superannuation.			1		4	5	
Advisers Total		37	40	31	108		
Credit		FSRI - credit - complaint about EDR scheme.	12	4	2	18	
		FSRI - credit - indigenous.	1	1	2	4	
		FSRI - credit - licence obligations - s47 general obligations.			13	13	
		FSRI - credit - other.		1	2	3	
Credit Total		13	6	19	38		
Credit (ADI)		FSRI - credit (ADI) - advertising.	1			1	
		FSRI - credit (ADI) - Code avoidance.		2		2	

	FSRI - credit (ADI) - credit cards / store cards.	3		3	6
	FSRI - credit (ADI) - debt collection / debtor harassment / debt recovery.	3	2	2	7
	FSRI - credit (ADI) - fees and charges / interest rates.	1		3	4
	FSRI - credit (ADI) - fraud.	2	1	3	6
	FSRI - credit (ADI) - hardship.		3		3
	FSRI - credit (ADI) - home loans.	4		1	5
	FSRI - credit (ADI) - IDR process.	1			1
	FSRI - credit (ADI) - licence obligations - s47 general obligations.	9	14	2	25
	FSRI - credit (ADI) - misleading or deceptive conduct.	1	2	2	5
	FSRI - credit (ADI) - other.		3		3
	FSRI - credit (ADI) - responsible lending.	1		1	2
	FSRI - credit (ADI) - small business lending.	5			5
	FSRI - credit (ADI) - unconscionable conduct.	2		3	5
	FSRI - credit (ADI) - unlicensed conduct.	3	5		8
	FSRI - credit (ADI) - unsolicited credit / limit increase.	1		1	2
<b>Credit (ADI) Total</b>		<b>37</b>	<b>32</b>	<b>21</b>	<b>90</b>
<b>Credit (non-ADI)</b>	FSRI - credit (non-ADI) - advertising.	3		4	7
	FSRI - credit (non-ADI) - Code avoidance.	2			2
	FSRI - credit (non-ADI) - credit cards / store cards.	1		4	5
	FSRI - credit (non-ADI) - debt collection / debtor harassment / debt recovery.	14	11	14	39
	FSRI - credit (non-ADI) - fees and charges / interest rates.	5	3	2	10
	FSRI - credit (non-ADI) - fraud.	10			10
	FSRI - credit (non-ADI) - hardship.	1			1
	FSRI - credit (non-ADI) - home loans.	4	2		6
	FSRI - credit (non-ADI) - investment loans.			2	2
	FSRI - credit (non-ADI) - licence obligations - s47 general obligations.	39	48	35	122
	FSRI - credit (non-ADI) - loan re-financing / re-draw / switching.		1		1
	FSRI - credit (non-ADI) - misleading or deceptive conduct.	25	15	19	59
	FSRI - credit (non-ADI) - other.	3	8	3	14
	FSRI - credit (non-ADI) - personal loans.	3	1		4
	FSRI - credit (non-ADI) - responsible lending.	2	10	5	17
	FSRI - credit (non-ADI) - short term / payday loans.	1		2	3
	FSRI - credit (non-ADI) - small business lending.	3		3	6
	FSRI - credit (non-ADI) - unconscionable conduct.	4	6	8	18
	FSRI - credit (non-ADI) - unfair contract terms.	2		3	5
	FSRI - credit (non-ADI) - unlicensed conduct.	13	16	16	45
	FSRI - credit (non-ADI) - unsolicited credit / limit increase.	1			1
<b>Credit (non-ADI) Total</b>		<b>136</b>	<b>121</b>	<b>120</b>	<b>377</b>
<b>Deposit Takers</b>	FSRI - deposit takers - account.	7	1	2	10

	FSRI - deposit takers - fees and charges.			2	2
<b>Deposit Takers Total</b>		<b>7</b>	<b>1</b>	<b>4</b>	<b>12</b>
<b>General</b>	Breach Report - disclosure.	1			1
	Breach Report - professional indemnity / fraud cover.	1			1
	FSRI - general - breach of EU or Court order.			2	2
	FSRI - general - complaint about EDR scheme.	7	6	2	15
	FSRI - general - conflicts of interest.		1		1
	FSRI - general - disclosure other products.			1	1
	FSRI - general - false or misleading representations.	12	12	5	29
	FSRI - general - FOS or COSL expulsion.		83	5	88
	FSRI - general - fraud.	8	2	3	13
	FSRI - general - IDR process of licensee.	4	3	1	8
	FSRI - general - misleading or deceptive conduct.	8	14	28	50
	FSRI - general - provide financial services efficiently, honestly, fairly.	75	62	29	166
	FSRI - general - risk management / compliance systems.	36	35	34	105
	FSRI - general - supervision of authorised and other representatives.	11	2	11	24
	FSRI - general - training and competence.	1	1		2
	FSRI - general - unconscionable conduct.	1		4	5
	FSRI - general - unfair contract term.	4			4
<b>General Total</b>		<b>169</b>	<b>221</b>	<b>125</b>	<b>515</b>
<b>Insurance</b>	FSRI - insurance - advertising.		2		2
	FSRI - insurance - claims.	3	4	2	9
	FSRI - insurance - consumer credit insurance.	3	1	1	5
	FSRI - insurance - disclosure.	4	3	4	11
	FSRI - insurance - home and contents insurance.		4		4
	FSRI - insurance - life insurance.	1		1	2
	FSRI - insurance - motor vehicle insurance.			4	4
	FSRI - insurance - other.	3	4	2	9
<b>Insurance Total</b>		<b>14</b>	<b>18</b>	<b>14</b>	<b>46</b>
<b>Managed Investment Scheme</b>	FSRI - managed investment scheme - compliance plan.	33	41		74
	FSRI - managed investment scheme - fees and charges.		2	2	4
	FSRI - managed investment scheme - fraud.			2	2
	FSRI - managed investment scheme - frozen fund.	1		3	4
	FSRI - managed investment scheme - member reporting.	6	6		12
	FSRI - managed investment scheme - other.	10	17	10	37
	FSRI - managed investment scheme - PDS.	1	4	2	7
	FSRI - managed investment scheme - related party transactions.			6	6
	FSRI - managed investment scheme - takeover / control / meetings.	2	4	2	8
	FSRI - managed investment scheme - timeshare.		1	2	3
	FSRI - managed investment scheme - unit pricing.	7			7

Managed Investment Scheme Total		60	75	29	164	
Scams	FSRI - scams - fake credit / loans.		3	2	5	
	FSRI - scams - fake debt / invoices.	1		1	2	
	FSRI - scams - money transfer schemes (other fraud).	1	1	2	4	
	FSRI - scams - Nigerian.		4		4	
	FSRI - scams - phishing.	1	4	10	15	
	FSRI - sports arbitrage / gambling scheme.	4	5	8	17	
Scams Total		7	17	23	47	
Superannuation	FSRI - superannuation - account administration / payment issues.	1	3	12	16	
	FSRI - superannuation - disclosure.	7	4	3	14	
	FSRI - superannuation - fees and charges.	1	3	1	5	
	FSRI - superannuation - fraud.	1	4	1	6	
	FSRI - superannuation - illegal early access.			1	1	
	FSRI - superannuation - other.	1			1	
	FSRI - superannuation - performance of fund.	1		1	2	
	FSRI - superannuation - SMSF auditor concerns.			1	1	
	FSRI - superannuation - SMSF.		3		3	
Superannuation Total		12	17	20	49	
Unlicensed / Unregistered	FSRI - unlicensed financial services - acting outside the scope.	2			2	
	FSRI - unlicensed financial services - breach of banning order.		3	3	6	
	FSRI - unlicensed financial services - carbon credit / emission units.		1		1	
	FSRI - unlicensed financial services - hawking of financial products.			1	1	
	FSRI - unlicensed financial services - holding out.	4	2	4	10	
	FSRI - unlicensed financial services - onshore cold calling.	15		3	18	
	FSRI - unlicensed financial services - overseas cold calling.	22	38	23	83	
	FSRI - unlicensed financial services - SMSF Advice.	3	8	12	23	
	FSRI - unlicensed financial services - trading software.	2	6	3	11	
	FSRI - unlicensed financial services - wealth creation seminar.	2	4		6	
	FSRI - unlicensed financial services.	45	42	21	108	
	FSRI - unregistered managed investment scheme - ponzi.		1	1	2	
	FSRI - unregistered managed investment scheme.	5		5	10	
	Unlicensed / Unregistered Total		100	105	76	281
Unsolicited Offer Total			2	2	4	
Financial Services / Retail Investors Total		592	655	484	1731	
Market Integrity	Market Integrity	MI - continuous disclosure listed.	11	17	10	38
		MI - credit rating agency misconduct.		1		1
		MI - director's interest notification.	3		11	14



## Stakeholder Services

		MI - insider trading.	13	17	20	50
		MI - market integrity rules.	17	6	7	30
		MI - market manipulation.	11	9	10	30
		MI - market operator misconduct.		3		3
		MI - market participant / stockbroker misconduct.	3			3
		MI - MI rules 5,11,1 suspicious activity report.	1	8	9	18
		MI - misleading statements.	5	16	3	24
		MI - securities dealer misconduct.	1		1	2
		MI - short selling.	1	1	1	3
		MI - substantial shareholding notification.	2	2	1	5
Market Integrity Total			68	80	73	221
Registry Integrity	Registry Integrity	REG - address offence.	80	38	40	158
		REG - business names - other.	5	2	3	10
		REG - business names - similar names.	3	5	4	12
		REG - business names - unregistered.	29	28	25	82
		REG - carrying on business using Ltd NL or Pty in name.	9	2	5	16
		REG - never consented to be a director.	1	1	5	7
		REG - no directors.	1	6		7
		REG - other registry fraud.	2	2	3	7
		REG - other.	1	3	4	8
		REG - request to halt deregistration.	2	1	1	4
Registry Integrity Total			133	88	90	311
Other	Other	AUSTRAC - suspicious matter report - corporate fraud.	6	6	4	16
		AUSTRAC - suspicious matter report - credit application.		2		2
		AUSTRAC - suspicious matter report - gambling.			2	2
		AUSTRAC - suspicious matter report - other.	17	32	10	59
		AUSTRAC - suspicious matter report - unlicensed.	1			1
		INT - Intelligence Report.	17	1		18
		OTH - complaint about ASIC.		1		1
		OTH - money laundering.	1			1
		OTH - other.	4	4	13	21
		OTH - unauthorised use of ASIC logo.			6	6
Other Total			46	46	35	127
Grand Total			1495	1563	1096	4154