



Superannuation regulatory risk report

May 2026

Enforcement action against the superannuation sector peaks in 2025

Regulatory enforcement action against the superannuation sector has reached new heights in recent years, with the Australian Securities and Investments Commission (**ASIC**) and the Australian Prudential Regulation Authority (**APRA**) pursuing ambitious and high-profile agendas on a range of matters impacting the sector, such as member services failures, the protection of superannuation savings, and governance.

ASIC's court-based actions have led to significant penalties, while APRA has favoured alternative (though often no less impactful) measures such as enforceable undertakings and licence conditions.

Looking ahead to later in 2026 and to 2027, enforcement risk remains elevated, with several civil penalty proceedings before the courts and further regulatory action anticipated across the sector.

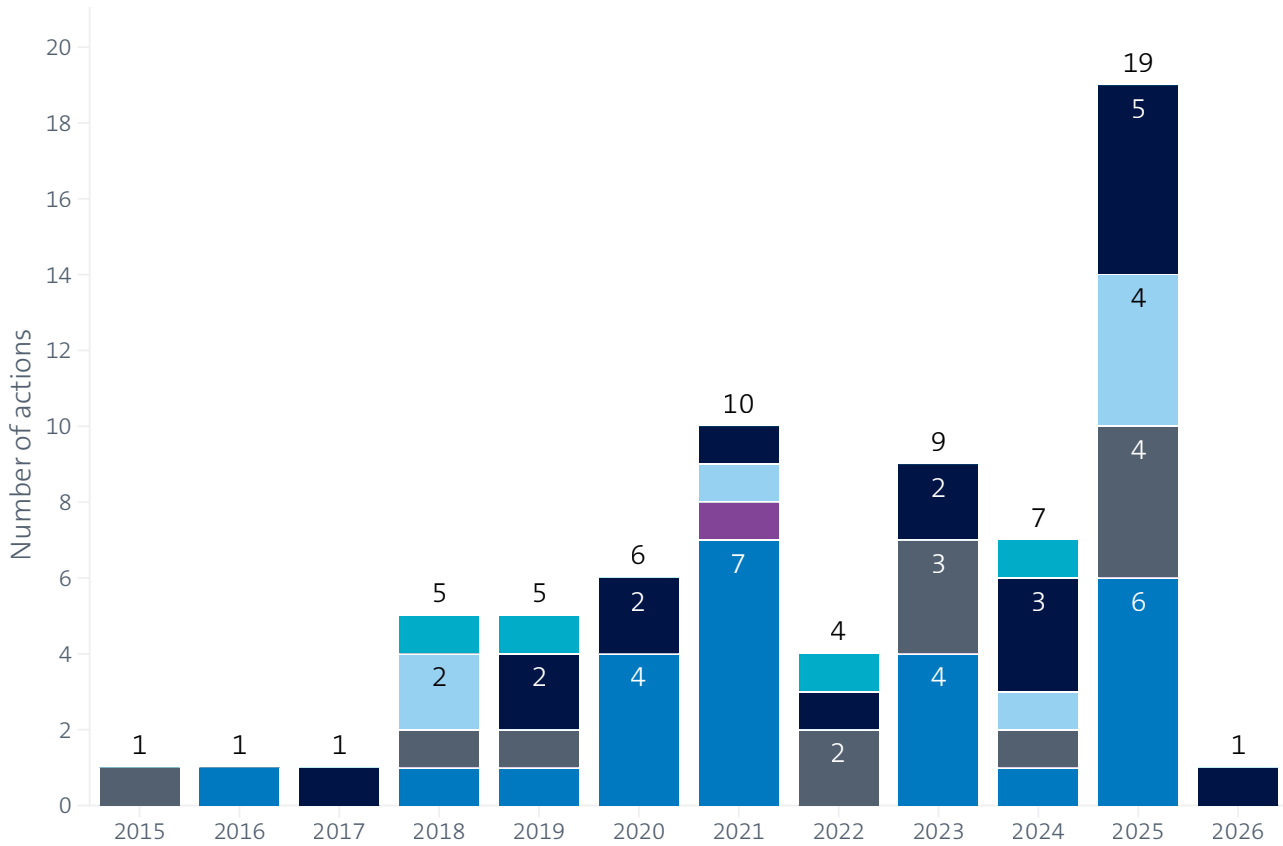
In this report, we give an overview of the key developments in 2025 and early 2026, and a snapshot of what we expect to see in the next 12 months.

Key trends

Regulatory enforcement activity at its peak

Total regulatory actions between 2015 and 2026

- Civil proceedings
- Criminal proceedings
- Infringement notices (1)
- Court enforceable undertakings
- Licence conditions
- Other (2)



Note: for civil and criminal proceedings, the date is the commencement date of the proceeding.

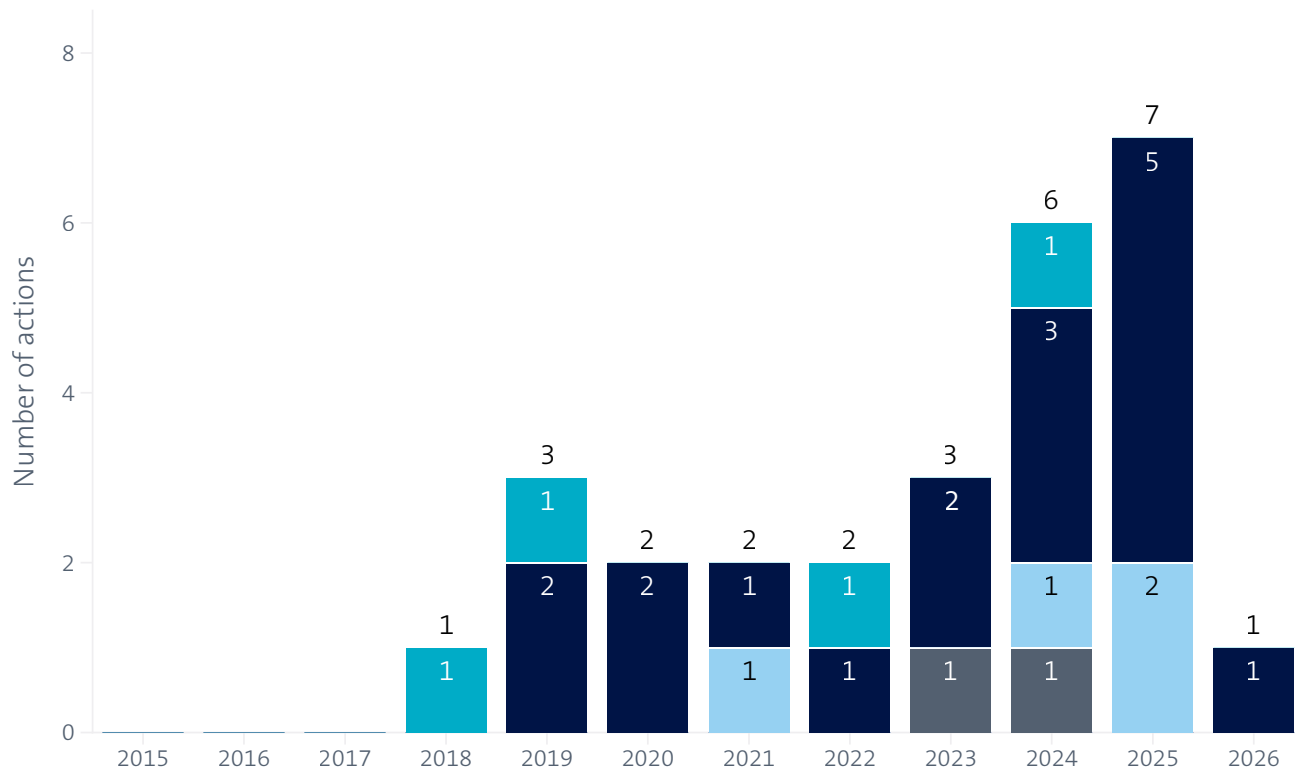
(1) Where ASIC or APRA has issued multiple infringement notices to an entity in respect of the same conduct, this has been included as one infringement notice.

(2) 'Other' includes directions and fines.

Regulatory enforcement activity against superannuation trustees reached its peak in 2025, with the commencement of six new civil penalty proceedings, issuance of four sets of infringement notices, acceptance of four court enforceable undertakings and the imposition of licence conditions on five entities.

APRA regulatory actions between 2015 and 2026

■ Civil proceedings
 ■ Criminal proceedings
 ■ Infringement notices (1)
■ Court enforceable undertakings
 ■ Licence conditions
 ■ Other (2)



Note: for civil and criminal proceedings, the date is the commencement date of the proceeding.

(1) Where APRA has issued multiple infringement notices to an entity in respect of the same conduct, this has been included as one infringement notice.

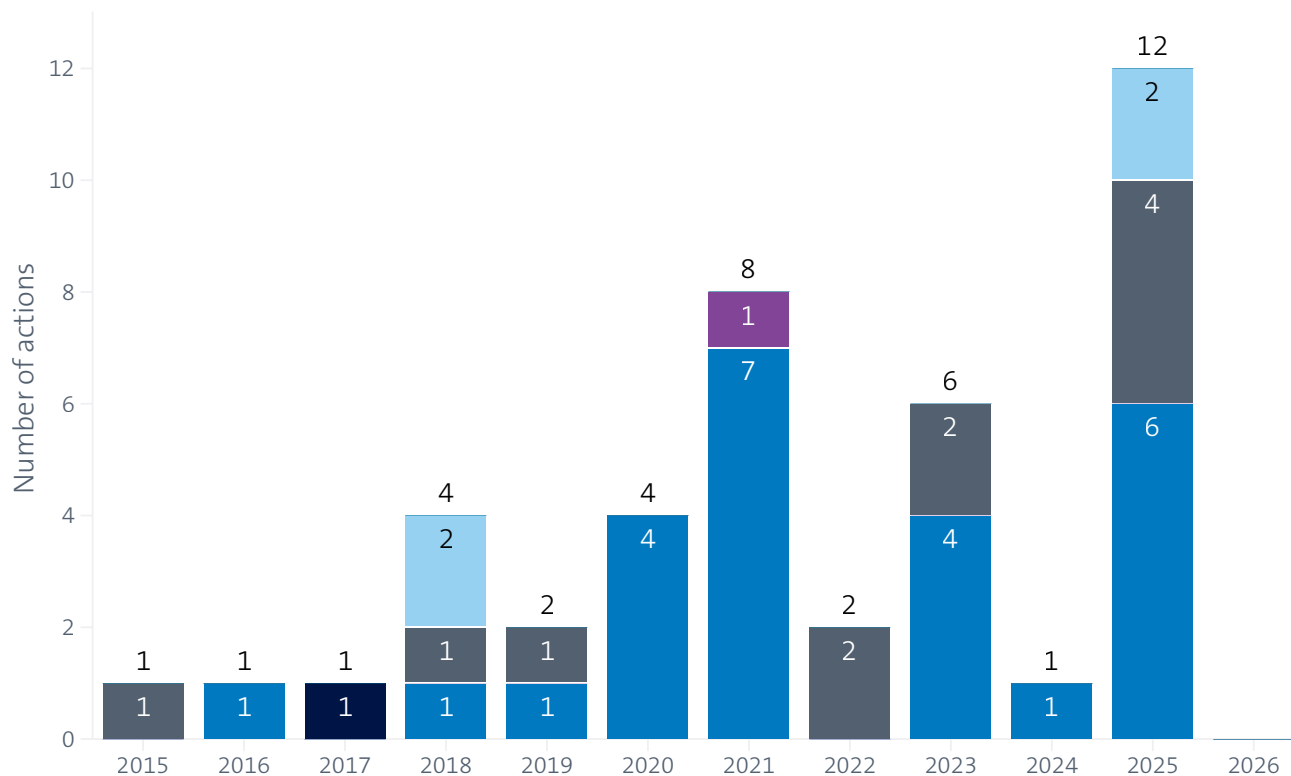
(2) 'Other' includes directions and fines.

Enforcement activity initiated by APRA has increased over time, consistent with the regulator’s recent indications it intends to pursue formal enforcement action against entities or individuals where appropriate.¹ This activity peaked in 2025, when APRA brought seven enforcement actions against superannuation trustees. While the imposition of licence conditions remains APRA’s regulatory tool of choice, it has also favoured the use of court enforceable undertakings in recent years.

¹ [APRA Corporate Plan 2025-26 | APRA](#).

ASIC regulatory actions between 2015 and 2026

■ Civil proceedings
 ■ Criminal proceedings
 ■ Infringement notices (1)
 ■ Court enforceable undertakings
 ■ Licence conditions
 ■ Other (2)



Note: for civil and criminal proceedings, the date is the commencement date of the proceeding.

(1) Where ASIC has issued multiple infringement notices to an entity in respect of the same conduct, this has been included as one infringement notice.

(2) 'Other' includes directions and fines.

Civil penalty proceedings continue to be a central feature of ASIC's enforcement approach. However, in recent years—most notably, 2025—there has been a marked increase in ASIC's use of infringement notices as an alternative enforcement pathway. This resurgence follows a relative lull in their use after Commissioner Hayne's sustained criticism of non-court-based remedies during the Financial Services Royal Commission (the **FSRC**). Court enforceable undertakings have also returned to favour, with four court enforceable undertakings accepted from superannuation entities in 2025.

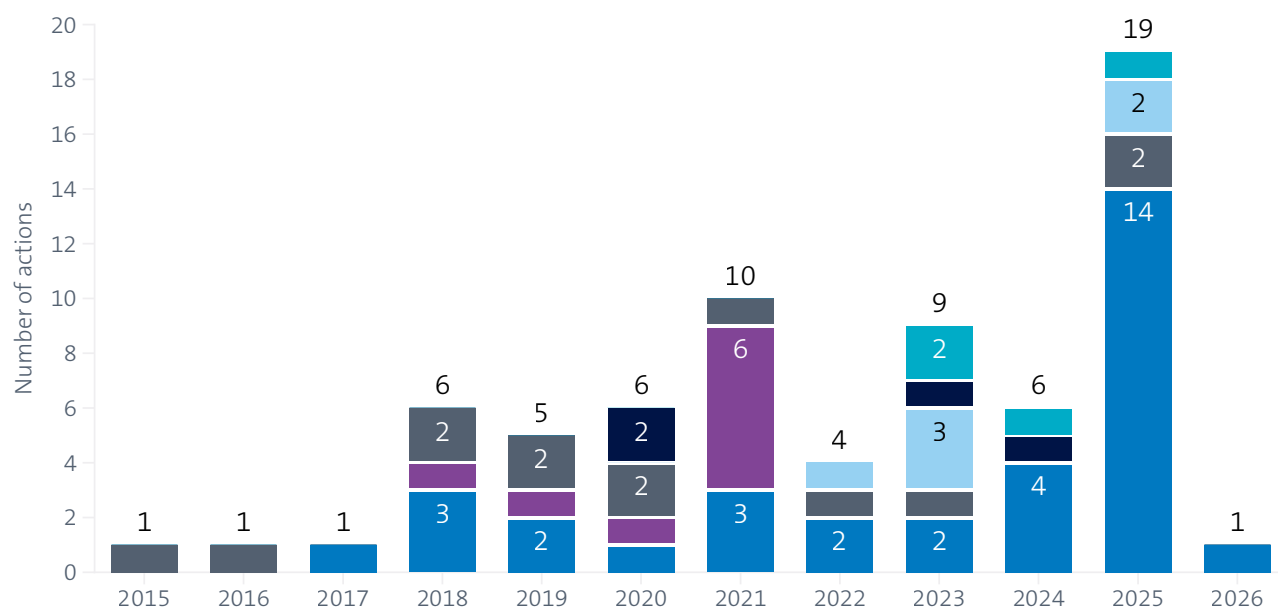
Consistently with these trends, both APRA and ASIC have signalled in their latest Corporate Plans a strong appetite to increase the intensity of their supervision and enforcement action. APRA has emphasised its preparedness to take formal enforcement action where appropriate, while ASIC has stated that its intention is to pursue high penalties and sentences through the courts, so that the cost of breaking the law has a material impact on regulated entities and individuals.² We anticipate that enforcement action against the superannuation sector will remain elevated in the year ahead.

² [ASIC Corporate Plan 2025-26](#); [APRA Corporate Plan 2025-26](#) | APRA.

A variety of different subject matters

Subject matter of enforcement actions

■ Governance / risk management
 ■ Erroneous fees and charges
 ■ MDC
■ Greenwashing
 ■ MySuper obligations
 ■ Member service failures



Note: Actions concerning more than one subject matter are counted against all relevant categories.

The range of subject matters attracting enforcement action is broadening.

Recent areas of focus include:

- (a) **member services failures**, including in respect of death benefits claims and complaints handling, which have been high on ASIC’s agenda since 2023;
- (b) **governance and risk management issues**, including the recent wave of enforcement action following the Shield and First Guardian Master Funds collapse, which is, in large part, responsible for the peak in enforcement activity in 2025, as well as APRA’s recent focus on expenditure management; and
- (c) **‘greenwashing’ and ‘bluewashing’**, involving allegations of false or misleading claims by superannuation trustees about their environmental, social and governance (ESG) credentials— which has been a consistent feature of ASIC’s enforcement agenda in recent years.

Looking ahead, we expect to see a continued regulatory focus on the protection of superannuation savings, as the fallout from the Shield and First Guardian Master Funds collapse continues to be felt. There is also likely to be ongoing scrutiny of member service failures, including in light of ASIC’s review of how trustees use complaints data to identify and address systemic issues,³ and the recent court decision in which Telstra Super was found to have not complied with its internal dispute resolution procedures. Governance and risk management will also likely continue to be a key area of regulatory focus. With greenwashing falling off ASIC’s enforcement priorities for the first time since 2023, enforcement activity in this area may taper off, keeping in mind that ASIC has indicated it will be pragmatic and proportionate in its approach to supervising and enforcing the new mandatory climate-related financial disclosure requirements.⁴

³ [ASIC Corporate Plan 2025-26](#).

⁴ [Reporting and audit update - Issue 1 | ASIC](#).

A consistent range of alleged contraventions in court-based enforcement proceedings

Alleged contraventions in court-based enforcement proceedings



Note:

- (1) Includes all allegations of breaches of all subsections of s912A *Corporations Act 2001* (Cth).
- (2) Includes allegations of breaches of all subsections of s52 *Superannuation Industry (Supervision) Act 1993* (Cth).
- (3) MDC includes all allegations of breaches of ss12CB, 12DA, 12DB, 12DF of the *Australian Securities and Investments Commission Act 2001* (Cth); and s1041H of the *Corporations Act 2001* (Cth).
- (4) Where proceedings include multiple causes of action, each has been included separately.

Recent court-based enforcement proceedings against the superannuation sector have commonly relied on causes of action falling within at least one of the following three categories:

(a) False, misleading or unconscionable conduct allegations

These proceedings involve alleged breaches of:

- the false, misleading or deceptive conduct provisions (sections 12DA, 12DB and 12DF of the *Australian Securities and Investments Commission Act 2001* (Cth) (the **ASIC Act**); and s1041H of the *Corporations Act 2001* (Cth)); or
- the prohibition against engaging in unconscionable conduct (s12CB of the ASIC Act).

Although down from their peak in 2021, these allegations have historically been a mainstay of ASIC court enforcement proceedings.

These causes of action are relied on in proceedings involving a broad array of alleged misconduct, including in relation to fee disclosures, fees for no services, and disclosure documents, member communications and advertising (eg in relation to investment returns and insurance cover).

ASIC, in particular, has more recently been relying on these provisions in respect of alleged 'greenwashing' or 'bluwashing', though, as noted above, we expect that enforcement action in this area may taper off.⁵

⁵ [ASIC Enforcement Priorities 2023-2026](#).

(b) Breaches of general obligations of financial services licensees

These proceedings involve alleged breaches by superannuation trustees of their general obligations as Australian Financial Services (**AFS**) Licensees under s912A of the Corporations Act, including the obligation to ensure financial services covered by their licences are provided efficiently, honestly and fairly.

ASIC's use of these causes of action has fluctuated, but broadly increased over time, peaking in the period following the FSRC in 2021 and again in 2025. This, in part, may reflect the regulator's increasing reliance on these broad, process-focused obligations to address perceived 'systemic' misconduct. For superannuation trustees, s912A has featured most recently in proceedings alleging member services failures in relation to the handling of complaints,⁶ and death benefit and insurance claims,⁷ as well in various proceedings arising from the Shield and First Guardian Master Funds collapse.⁸

(c) Breaches of general superannuation trustee covenants

These proceedings relate to alleged breaches by superannuation trustees of their covenants under s 52 of the *Superannuation Industry (Supervision) Act 1993* (Cth) (the **SIS Act**), including the obligation to exercise the same degree of care, skill and diligence as a prudent superannuation trustee, and to act in the best financial interests of members.

In recent years, the regulators' use of these provisions in enforcement proceedings has also fluctuated but broadly increased and mirrored (at a lower level) the trajectory of the regulators' reliance on s912A of the Corporations Act. This may reflect that these causes of action are often alleged in parallel.

Treasury is currently consulting on increasing penalties under the SIS Act, including on the basis that its materially lower penalties in comparison with the Corporations Act could incentivise regulators to pursue claims under the Corporations Act, even when the SIS Act proceedings are more applicable to the relevant conduct.⁹ If those changes are implemented, we may see an increased reliance on the SIS Act covenants.

As is the case in relation to s912A, these causes of action have most recently featured in proceedings alleging member services failures, and arising from the Shield and First Guardian Master Funds collapse.

⁶ *Australian Securities and Investments Commission v Telstra Super Pty Ltd* [2026] FCA 527.

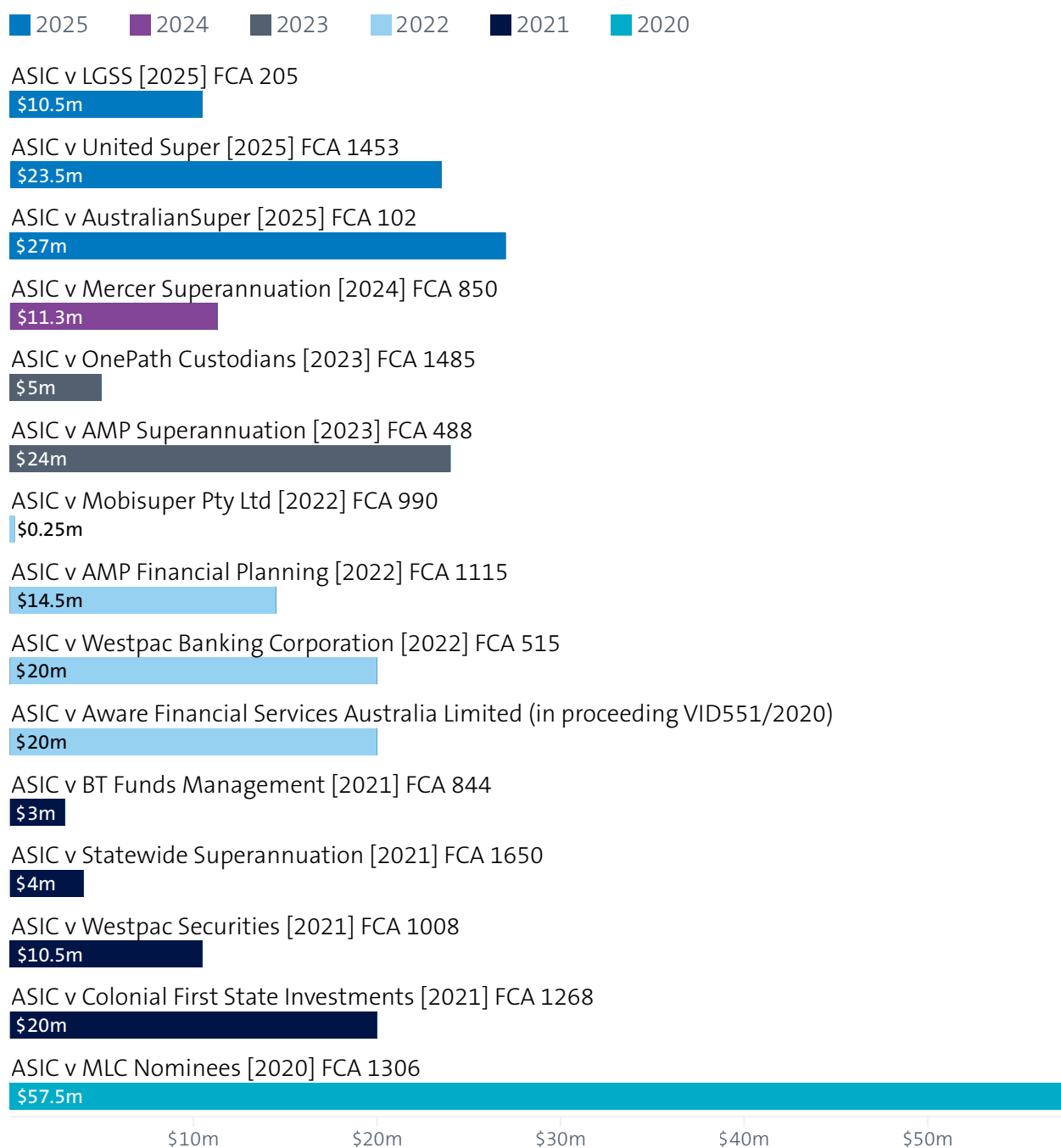
⁷ *ASIC v United Super Pty Ltd* [2025] FCA 1453.

⁸ For example, *ASIC v Netwealth Investments Limited (ACN 090 569 109)* (Federal Court, VID1658/2025, commenced 18 December 2025).

⁹ Enhancing member protections in the superannuation system, Consultation Paper, April 2026, p. 23.

The quantum of penalties in court enforcement proceedings remains steady

Civil penalties: total quantum over time



Note: Penalty date is recorded as the date ordered.

Overall, the quantum of civil penalties awarded in enforcement proceedings remains steady. While the highest penalty to date arose from proceedings commenced following the FSRC in 2020, penalty levels have remained relatively stable since then, with the higher recent penalties being awarded in 2025 in proceedings involving member services failures.¹⁰

We may see civil penalties broadly increase in the coming years. ASIC has stated in its Corporate Plan that it is committed to 'pursuing high penalties and sentences' through the courts, so that 'the cost of breaking the law has a material impact on' regulated entities and individuals.¹¹

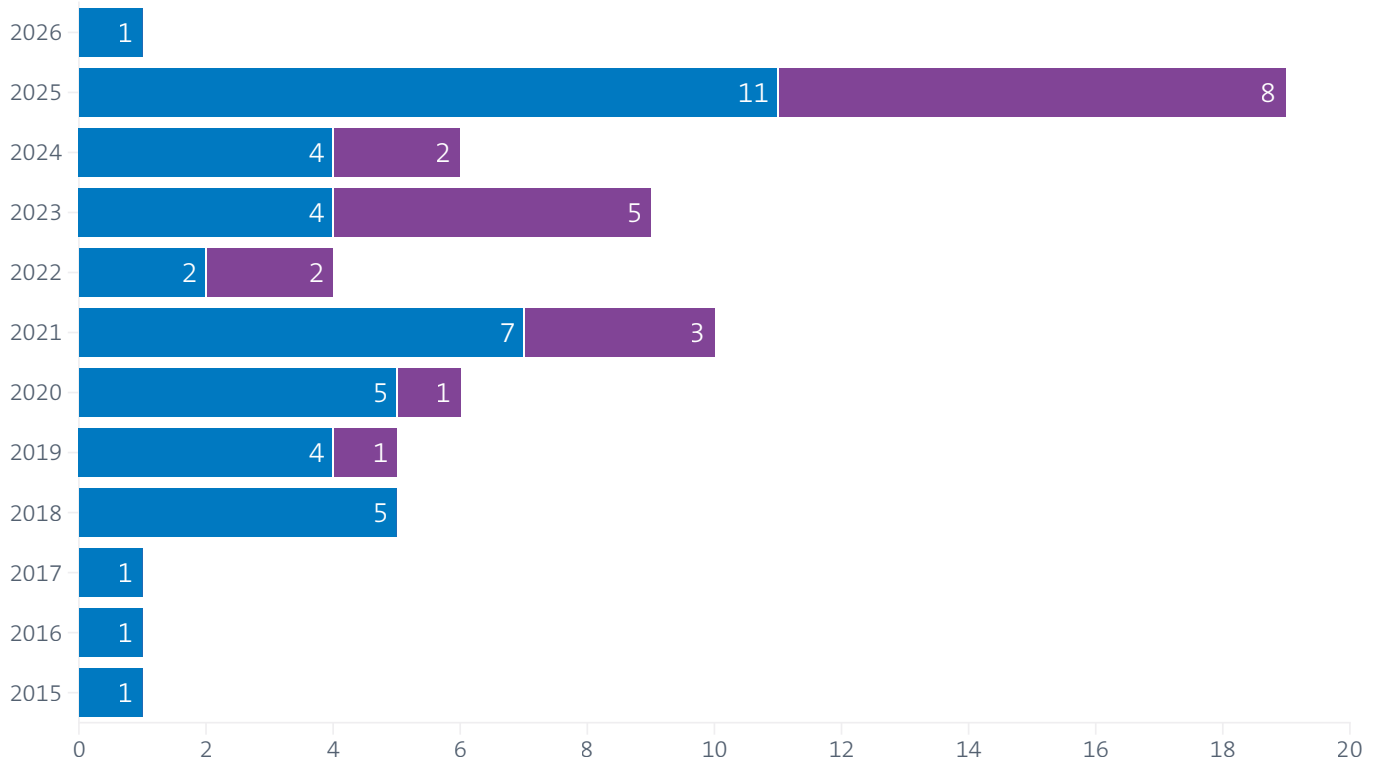
¹⁰ ASIC v United Super [2025] FCA 1453; ASIC v AustralianSuper [2025] FCA 102.

¹¹ ASIC Corporate Plan 2025-26.

An increased focus on industry funds

Enforcement actions by fund type

■ Retail ■ Profit-for-member



Historically, enforcement activity has been directed primarily at retail funds, including in the period following the FSRC. Since 2022, however, there has been a marked increase in enforcement action against profit-for-member funds, culminating in a peak in 2025, with a record 8 actions commenced against those funds. Notwithstanding this shift, retail funds remain an ongoing focus for regulators, with enforcement activity against them remaining relatively stable over the past five years. Retail funds have, in particular, been a focus of the recent wave of enforcement actions arising from the collapses of the Shield and First Guardian Master Funds.

What to watch in the year ahead

In the year ahead, we expect to see:

- (a) continued regulatory scrutiny of the delivery of member services, particularly in relation to complaints handling and failures in the oversight of administrative service providers;
- (b) a continued focus on the protection of superannuation savings, as the fallout from the Shield and First Guardian Master Funds collapses continues to be felt, and scams and fraud prevention come into greater focus for regulators;
- (c) an ongoing evolution of governance expectations, driven by APRA's governance review, alongside sustained enforcement focus by ASIC and APRA on perceived governance failures;
- (d) a continued emphasis on cyber resilience and the responsible adoption of AI, including among superannuation trustees; and
- (e) a tapering-off of the recent heightened focus on greenwashing, bearing in mind ASIC's indication that it will adopt a pragmatic and proportionate approach to supervising and enforcing the new mandatory climate-related financial disclosure requirements.¹²

We set out below further details on recent developments in each of these focus areas.

Delivering member services

Complaints handling

Reviewing member complaints handling is a key pillar of ASIC's strategic priority of supporting improved member services. It regards complaints as a primary source of feedback to trustees and views the approach to complaints as a clear measure of whether a trustee is focused on its members and the maturity of its risk management approach. The focus is not only on compliance with the strict internal dispute resolution (**IDR**) requirements in Regulatory Guide 271, but also on trustees' broader systems and processes around obtaining and responding appropriately to complaints information—bringing into focus the obligations to act efficiently, honestly and fairly, and the roles of senior management and the board.

This was recently illustrated in the decision involving Telstra Super.¹³ While ASIC ultimately failed to establish a contravention by Telstra Super of its obligation to act efficiently, honestly and fairly, Telstra Super was found to have contravened its obligations in respect of complaints handling, having failed to issue 'IDR responses' within the maximum timeframe for approximately a third of the 323 complaints made during the relevant period. Notwithstanding, we expect to see regulators continue to seek to rely on the efficiently, honestly and fairly obligation in this context.

In March 2026, ASIC launched its new public-facing Internal Dispute Resolution Dashboard, designed to improve transparency and accountability by publishing firm-level IDR data, giving greater visibility as to consumer concerns and potential harm. This followed the launch of ASIC's Reportable Situations dashboard in October 2025. The dashboard enables funds to be compared against one another in terms of complaints volume, resolution time and outcomes. ASIC has noted that it will provide a valuable data set to inform regulatory decision-making, and we expect that it could also lead to increased member and regulatory scrutiny.

Oversight of administrative service providers

Alleged member service failures, including in the context of insufficient oversight of administrative service providers, have been a particular focus of recent ASIC and APRA enforcement action.

In November 2025, the Federal Court ordered Cbus to pay a penalty of \$23.5 million in respect of delays in the processing and payment of member death and total and permanent disablement insurance claims, and for poor breach reporting practices.¹⁴ Proceedings are currently before the Federal Court against AustralianSuper, relating to an alleged failure by it to take all reasonable steps to ensure that death benefit payments were processed within a reasonable period of time.

APRA imposed new licence conditions on HESTA in December 2025, following significant disruption to member services after the transition of its administrative services to GROW. APRA considered that HESTA's oversight and management of the transition was insufficient. The licence conditions required the commissioning of independent reviews of HESTA's risk management framework and board effectiveness.

This all comes in the context of the heightened operational risk management obligations imposed under CPS 230 from 1 July 2025, including in relation to the management of risks associated with the use of service providers. As part of its strategic objective on maintaining operational resilience, APRA has been engaging with and supervising the implementation of CPS 230.

¹² [Reporting and audit update - Issue 1 | ASIC](#).

¹³ *Australian Securities and Investments Commission v Telstra Super Pty Ltd* [2026] FCA 527.

¹⁴ *Australian Securities and Investments Commission v United Super Pty Ltd* [2025] FCA 1453.

Protecting superannuation savings

The fallout from the collapse of the Shield and First Guardian Master Funds has continued to be a key area of focus for ASIC and APRA throughout 2025 and into 2026. Approximately 6,000 First Guardian investors and 5,800 Shield investors, with combined balances of around \$1.1 billion, are estimated to have been impacted. The enforcement response has been designated as a standalone ASIC enforcement priority.

Proceedings against trustees

Civil proceedings have been commenced against Equity Trustees and Diversa, with ASIC alleging deficiencies in investment governance, due diligence and monitoring. The allegations are framed as contraventions of the covenants of care, skill and diligence and the best financial interests duty; the obligation to act efficiently, honestly and fairly; and the investment governance covenants in s52(2) of the SIS Act.

APRA has imposed licence conditions on Equity Trustees and Diversa in December 2025 and Fiducian in April 2026 in response to prudential concerns regarding their investment governance frameworks.

Macquarie and Netwealth entered into a settlement with ASIC, under which they have agreed to admit contraventions and return net capital to affected members—Macquarie in the amount of \$321 million, and Netwealth in the amount of \$100 million—and, as a result, have avoided the imposition of penalties. ASIC has emphasised that its decision not to seek penalties was based on the strong public interest in prioritising the prompt return of the capital to members.¹⁵

Action beyond trustees

ASIC commenced proceedings in November 2025 against Interprac, the advice licensee whose authorised representatives directed approximately 6,800 clients to invest around \$677 million into Shield and First Guardian. ASIC has also taken action against SQM Research, marking the first time ASIC has brought an action against a research house, on grounds of misleading conduct, and breaches of obligations to act efficiently, honestly and fairly. ASIC has cancelled a number of AFS licences, banned numerous advisers and taken personal action (including investigating serious criminal offence provisions) against a number of individuals.

Treasury's legislative response

The Shield and First Guardian Master Funds collapse has led to a number of Treasury consultations on proposed regulatory reforms intended to address some of the underlying risks and causes of member loss.

The most significant for superannuation trustees is 'Enhancing member protections in the superannuation system', released in April 2026 and closing in May 2026.¹⁶ A number of the changes proposed by Treasury, particularly regarding strengthening platform governance, are premised on the basis that the existing legislative framework establishes clear 'baseline expectations' but that Shield and First Guardian have highlighted that strong obligations do not always translate into consistently robust investment governance. Key proposals include:

- (a) strengthening governance requirements for platform trustees, including through mandatory holding limits and codified due diligence requirements;
- (b) limiting certain platform-specific conflicted arrangements, including payments linked to product listing and volume incentives;
- (c) restricting certain trustee operating models, namely so-called 'trustee-for-hire' models;
- (d) increasing civil penalties under the SIS Act, with options including doubling the current maximum or aligning with the Corporations Act position;
- (e) a waiting period for inter-fund superannuation switching;
- (f) limiting fee deductions for switching-related financial advice; and
- (g) requiring platform trustees to compensate members for eligible losses arising from external fraud or theft, payable from the trustee's personal capital.

Scams and fraud

In February 2026, ASIC called for action from superannuation trustees following a review of anti-scam and fraud-related website content across 47 superannuation funds, which identified areas requiring improvement.¹⁷

The Scams Prevention Framework, passed in February 2025, creates an overarching framework requiring businesses in particular sectors to take reasonable steps to prevent, detect and disrupt scams. While the initial sectors covered are banks, telecommunications and digital platforms, the Government has stated its ability to expand coverage to other sectors, including superannuation, which is becoming a focus of regulatory scrutiny in this area.

¹⁵ *ASIC v Macquarie Investment Management Limited* [2026] FCA 303 at [26].

¹⁶ [Consultation paper: Enhancing member protections in the superannuation system](#) See also: [Enhancing member protections in the superannuation system](#).

¹⁷ [26-014MR ASIC urges super trustees to step up and address serious gaps in anti-scam and fraud protections | ASIC](#).

Evolving governance expectations

APRA's governance review

APRA has identified a number of governance practices it considers require uplift across regulated entities, and has indicated its intention to raise minimum standards. APRA's ongoing governance review has encompassed higher minimum requirements for fitness and propriety of responsible persons; third-party performance assessments of boards, committees and individual directors; default tenure limits for non-executive directors; and board renewal processes. APRA has flagged that draft standards and guidance would be published in Q2 2026.¹⁸

APRA has also been active from an enforcement perspective in relation to governance issues. The licence conditions imposed on HESTA relate to concerns about its board's effectiveness in discharging its duties and obligations, including board governance and oversight.

Expenditure management

APRA imposed additional licence conditions on the trustee of the Australian Ethical Retail Superannuation Fund in November 2025, following a review that identified areas of concern in that trustee's processes for approving investment management and other fees paid to its parent company, Australian Ethical Investments. The conditions required an independent review of outsourcing and expenditure arrangements. This follows similar conditions imposed in 2024 on Cbus and BUSSQ, requiring those trustees to commission independent reviews of their compliance with fitness and priority processes under SPS 520: Fit and Proper and their best financial interests duty in making expenditure decisions. BUSSQ sought judicial review of APRA's decision to impose those licence conditions, but that application was unsuccessful.¹⁹

The Financial Accountability Regime

One area of particular recent focus for APRA is the Financial Accountability Regime (**FAR**). While FAR is relatively new in the superannuation context, APRA is increasingly relying on it in its investigatory work and in the negotiation of court-enforceable undertakings. Additionally, in October 2025, though in a banking context, APRA secured its first disqualifications under FAR against the former CEO and a former director of Xinja Bank.²⁰

¹⁸ [Governance review update](#) | APRA.

¹⁹ *BUSS (Queensland) Pty Ltd atf Building Unions Superannuation Scheme (Queensland) v Australian Prudential Regulation Authority* (2025) 185 ALD 468.

²⁰ APRA media release, 'APRA disqualifies two directors of Xinja Bank under Financial Accountability Regime', 9 October 2025.

Cyber, AI and privacy risk

Cyber resilience

Strengthening cyber resilience is a strategic priority for both ASIC and APRA in 2025–26, with APRA also focused on addressing systemic cyber vulnerabilities and potential risks associated with AI across the superannuation industry.

Following the cyberattacks on various superannuation funds in late March and early April 2025, APRA wrote to all RSE licensee board chairs in June 2025, requiring a self-assessment (or special purpose engagement under SPS 310, where the licensee was impacted in the cyberattacks) of information security controls to be undertaken, submission of material control weakness notifications where robust authentication controls were deficient,²¹ and confirmation of the accountable person under FAR for CPS 234 compliance, by 31 August 2025. This process was targeted at ensuring trustees had undertaken appropriate assessments to identify information security control weaknesses and to take steps to remediate such weaknesses, strengthening their cyber resilience.

We expect the regulators' focus on cyber resilience to continue, given the ever-evolving nature of this threat, and the need for trustees to regularly monitor, test the effectiveness of and (when required) uplift or update their information security controls, and improve their cyber security posture. This focus also aligns with the commencement of APRA Prudential Standard CPS 230 on 1 July 2025, which (among other things) requires superannuation entities to treat technology risk and data risk as a core aspect of their operational risk management framework.

Artificial intelligence

Both ASIC and APRA have committed to supporting the responsible adoption of AI, with a particular focus on AI governance. ASIC has urged market participants to ensure their governance practices and risk management systems keep pace with their adoption of AI, and has stated that it will take enforcement action where necessary in relation to AI, with a focus on the poor use of AI and technology-enabled scams and misconduct.

On 30 April 2026, APRA issued a letter to all regulated entities, outlining observations and expectations regarding AI adoption, following its targeted supervisory engagements with select large banks, insurers and superannuation trustees in late 2025.²² APRA's engagements found that while AI is being actively adopted, governance, risk management, assurance, and information security practices are failing to keep pace with the scale and complexity of AI deployment. While APRA acknowledged the potential benefits of AI adoption, it also outlined that it expects entities to promptly address identified gaps in relation to the sufficiency and appropriateness of current governance processes and board oversight, supplier risk management practices and assurance mechanisms. APRA has warned that inadequate identification, management and control of AI risks (in a manner proportionate to the entity's size, scale and complexity) would result in stronger supervisory action, or enforcement.

In other developments, frontier AI technology (such as Anthropic's recently announced Claude Mythos Preview)²³ is presenting opportunities for organisations to harness AI to help identify vulnerabilities, mitigate cyber threats and uplift their cyber security posture. However, these developments also highlight increasing cyber security risks associated with AI-enabled threats. In light of this, the Australian Signals Directorate (**ASD**) has advised organisations to continue to focus on good security practices, including by implementing a strong cyber security baseline aligned with the ASD's published cyber security framework and mitigation strategies.²⁴ On 8 May 2026, ASIC issued a letter to licensees and directors urging them to act now to strengthen their cyber resilience fundamentals in light of the rapid evolution of frontier AI technology, and encouraged entities to use the ASD's guidance on frontier AI technology and cyber security more generally.²⁵ ASIC called on organisations to take a number of specific actions (while noting that these were not new expectations), including to reassess cyber plans, strengthen cyber security fundamentals (including core controls), and prepare for an incident response by maintaining and exercising incident response plans and playbooks. In this letter, ASIC also underscored the importance of governance and accountability, and its expectations of boards and senior executives to understand their organisation's cyber security posture while not relying solely on assurances.

Organisations' adoption of AI also intersect with their privacy obligations, and from December 2026, organisations will have additional transparency obligations in relation to automated decision-making under amendments to the *Privacy Act 1988* (Cth). APPs 1.7 to 1.9 will mandate disclosure of the use of automated decision-making within privacy policies where it is used to make decisions that could 'reasonably be expected to significantly affect the rights or interests of an individual'.

Recent cyber-related enforcement action

ASIC's recent cyber security-related enforcement action against FIG Securities Limited, resulting in a \$2.5 million penalty, and Fortnum Private Wealth Limited reflects its emphasis on cyber security as a core component of AFS licensee obligations under s912A of the Corporations Act. Additionally, the recent outcome of the Office of the Australian Information Commissioner's proceedings against Australian Clinical Labs has provided further judicial guidance regarding baseline expectations for organisations' cyber risk management practices (including preparedness activities and during or following incidents), which we consider will likely be informative for other regulators (eg APRA and ASIC). This resulted in a \$5.8 million penalty, which was the first civil penalty under the Privacy Act.

²¹ This included where multi-factor authentication or equivalent controls were not implemented for high-risk activities.

²² [APRA Letter to Industry on Artificial Intelligence \(AI\) | APRA](#).

²³ [Claude Mythos Preview | red.anthropic.com](#); [Project Glasswing: Securing critical software for the AI era | Anthropic](#).

²⁴ [Frontier models and their impact on cyber security | Cyber.gov.au](#); [Information security manual | Cyber.gov.au](#); [Essential Eight | Cyber.gov.au](#).

²⁵ [26-092MR ASIC calls for urgent cyber uplift as AI accelerates cyber threats | ASIC](#); [Open letter to AFS licensees and market participants](#).

Greenwashing and regulatory risk in sustainability reporting

Sustainability reporting

The first mandatory sustainability reporting period for superannuation trustees commences on 1 July 2026. Financial reporting misconduct is a current ASIC enforcement priority. However, the regulator has indicated it will be pragmatic and proportionate in its supervisory and enforcement approach during the transition period.²⁶ From 2026, ASIC will undertake its first review of sustainability reports lodged with it and will publicly report on its findings.

Greenwashing

Greenwashing is no longer an ASIC enforcement priority, for the first time since ASIC first published its priorities in 2023.²⁷ Accordingly, we expect that the intensity of regulatory enforcement action in respect of greenwashing may taper off.

Nonetheless, recent proceedings against Fiducian, as responsible entity and trustee of the Diversified Social Aspirations Fund, are instructive for superannuation trustees, in that they highlight ASIC's recent focus on the intersection between greenwashing and governance. In those proceedings, ASIC alleged misleading or deceptive conduct in relation to representations about the fund's ESG credentials and the governance measures in place to ensure investments aligned with those representations—and that Fiducian failed to act with due care and diligence in failing to ensure the underlying investments aligned with those ESG representations. In March 2026, following court-ordered mediation, Fiducian admitted to the contraventions, and to pay a pecuniary penalty of \$7.3 million.

Connect with us

Our team has a depth of experience in addressing all of the issues that can arise in connection with regulatory enforcement action, including disclosure issues, directors' and officers' liability and class action risk. Our market-leading experience in crisis management brings together our expertise in these areas and more. We also offer risk and compliance advisory, to take the lessons learned from regulatory enforcement issues and build back stronger systems and processes.

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²⁶ [Reporting and audit update - Issue 1 | ASIC](#).

²⁷ ASIC enforcement 2026 priorities, ASIC website.



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