

Enforcing the law

Overview

373 staff investigated suspected breaches of the law:

- had 27 criminals convicted, including 17 jailed, in collaboration with Directors of Public Prosecutions
- completed 102 civil proceedings and obtained \$144 million in recoveries, costs, compensation and fines with more than \$71 million in assets frozen
- commenced 195 criminal, civil or administrative proceedings against 391 people or companies
- banned or obtained undertakings removing 44 people from managing corporations and 27 from offering financial services
- had 14 company auditors and liquidators disciplined for misconduct.

KEY RESULTS	This year	Last year	% change
Criminal, civil and administrative proceedings completed	189	159	+19%
Criminals jailed	*17	27	-37%
Civil orders against people or companies	230	121	+90%
Illegal schemes shut down or other action taken	102	76	+34%
People removed from directing companies	44	33	+33%
People banned from financial services	27	25	+8%
Auditors and liquidators disciplined for misconduct	14	12	+17%

* A number of criminal matters are still uncompleted before the courts, see page 5

High profile enforcement matters

We pursued a heavy workload of complex matters, including Westpoint, HIH Insurance, One.Tel, James Hardie, Offset Alpine Printing, and the tax-related cross-agency investigation 'Project Wickenby'. Key developments included:

HIH Insurance	Bradley Cooper jailed for corrupting an HIH executive, former FAI financial controller Tony Boulden pleaded guilty. Charges laid against former HIH Chairman, HIH Chief Financial Officer and former FAI officers. FAI officers acquitted on other charges
NAB foreign currency traders	4 former National Australia Bank foreign currency traders convicted and jailed for dishonestly using their positions to gain an advantage for themselves and others
Westpoint group	Commenced 35 proceedings against 27 individuals or companies. Orders obtained to preserve assets for creditors. Investigation of Westpoint directors, their advisers and financial advisers to investors is continuing
Citigroup	Civil proceedings begun for alleged mismanagement of conflicts of interest and insider trading

James Hardie, Offset Alpine Printing, Sons of Gwalia and the cross-agency tax-related investigation 'Project Wickenby' are matters under active investigation where it is not appropriate to make any public statement.

In 13 matters, parties challenged our proceedings, including 3 unsuccessful constitutional challenges to our powers, in both the High and full Federal Courts.

Superannuation choice

To protect consumers against mis-selling, we took criminal, civil and banning action against businesses and individuals.

Three jail terms were imposed for superannuation fraud. We revoked the licence of superannuation adviser, SMS Advising Group, and banned its director for serious breaches. We had 11 companies wound up and had permanent bans imposed on directors involved in setting up 53 self-managed super funds to misappropriate people's money.

We took enforceable undertakings (including from AMP in July 2006) and negotiated settlements against a number of large super funds and advisory businesses to stop misleading advertising, poor disclosure or inadequate compliance, see also pages 22 and 26.

Corporate insolvency

We stepped up our campaign against companies that trade while insolvent and threaten the interests of creditors, including employees.

Murray River Ltd	Malcolm Edwards banned by the court for 10 years for failing to prevent the company incurring debts exceeding \$3.5 million when there were reasonable grounds to suspect the company was insolvent
Neolido Holdings Pty Ltd	Liquidator appointed because the company had negative equity of about \$20 million, records about 3 to 4 months behind, and unpaid employee entitlements including superannuation

Liquidators were appointed to insolvent companies in 9 cases, and 23 directors or company officers involved in failed companies were banned for a total of over 87 years.

We also acted against misconduct by liquidators of failed companies. John Henderson Jackson was jailed for fraud, three other liquidators were disciplined, and two others relinquished their registration following our investigations.

Financial markets

We actively upheld the integrity of our financial markets. Key matters included:

Insider trading	Former Clifford Corporation directors John Barrie Loiterton and Ian Robert Hall jailed for 3 years and 25 months respectively
Directors duties	3 former officers of GIO Australia found to have breached their duties as directors during the course of AMP's 1998–99 takeover bid for GIO Australia Former Telstra director Stephen Vizard fined \$390,000 and banned as a director for 10 years
Continuous disclosure	Chemeq Ltd settled by conceding it had seriously contravened obligations to inform the market about matters likely to affect its share price (subsequently fined \$500,000) Began proceeding against Fortescue Metals Group Ltd and director Andrew Forrest for allegedly breaching continuous disclosure obligations and directors duties

Five listed companies (Astron Limited, Avastra Limited, QR Sciences Limited, SDI Limited and Solbec Pharmaceuticals Limited) were issued with notices for breaching continuous disclosure obligations and fined a total of \$165,000. We also investigated Telstra’s compliance with these obligations and publicly reported concerns about some of Telstra’s procedures that could create potential risks in meeting its continuous disclosure obligations in the future.

Financial services

To ensure consumers using financial products and getting financial advice were treated honestly and fairly, we obtained a wide range of remedies. In many cases, companies cooperated with ASIC inquiries.

ING Australia	Secured \$24.5 million compensation for investors to remedy unit pricing errors affecting its super, life insurance and managed investments
GE Money	Had the company change its practices in selling consumer credit and life insurance, and compensate affected consumers
Coles Myer	Obtained withdrawal of allegedly misleading advertising and promotional material for a credit card linked to petrol price discounts
David Tweed and National Exchange Pty Ltd	Federal Court found his below-market offers for shares in Aevum Ltd not in breach of the ASIC Act even though unconscionable and predatory
Gabby Haddad	Banned for issuing insurance when not licensed

Some 27 people were banned or otherwise excluded from the financial services industry.

Stopped more illegal investment schemes

We acted against 102 schemes or companies (up 34%) for illegally raising funds or running investment schemes, involving around 5,000 investors and \$788 million.

In addition to the major Westpoint investigation, other matters included:

Mercorella investment scheme	Wound up 10 companies associated with this \$236 million ‘Ponzi’ scheme that offered between 3% and 6% per month (or 42%–101% per year)
Arafura Equities	Shut down this \$18 million scheme that promised some 200 investors interest payments of 60% per year
Primelife Corporation Limited	Obtained final orders to wind up its \$152 million unregistered managed investment schemes

Auditor regulation

We caused 8 auditors and 6 liquidators to be disciplined or to surrender their registration for misconduct. Another was disciplined for not complying with administrative requirements.

Increased criminal matters

New criminal litigation increased from 61 to 74 matters, up almost 21%.

A higher number of criminal proceedings remained uncompleted in the courts, partly resulting from more complex and strongly contested litigation. We had 27 criminals convicted, including 17 jailings for serious fraud or dishonesty. Cases included:

Superannuation fraud	Chad Timmins defrauded people through the early release of preserved superannuation. 3 years 3 months jail, suspended after 10 months
Investment fraud	Elizabeth Heather Parry used around \$6 million from investors for personal purposes. 10 years jail, with a minimum of 4 years
Dishonest company officer	Anthony Oates used his position as an officer of Bell Resources to gain an advantage for Bond Corporation Pty Ltd. 3 years 4 months jail

Civil action and compensation

We obtained compensation, refunds, fines and costs of \$144 million, and had assets worth over \$71 million frozen for investors and creditors.

ASIC took 102 civil proceedings to stop misconduct, protect assets or obtain remedial or protective orders and fines, with orders against 230 people or companies. We accepted 16 enforceable undertakings affecting 27 entities, with another 20 formal settlements.

44 company directors and officers banned

44 directors were banned for a total of 195 years. A further 27 people were automatically disqualified from managing corporations, arising from convictions ASIC obtained. Cases included:

Dennis Howell Terracini	Permanent ban for illegal fundraising, misleading and deceptive conduct and contraventions of director's duties
Dennis Ralph Anthony and Martin Lloyd-Cocks	25 year bans for offering securities without a disclosure statement
George Saada	5 year ban for failing to assist liquidators; failure to produce companies' books and records

Outlook

Additional staff and funding will increase our ability to enforce the law.

We will:

- deal effectively with high priority enforcement actions, including investigations into Westpoint, James Hardie, One.Tel and Offset Alpine Printing
- contribute to early and effective regulatory interventions to respond to losses and misconduct related to complex financial products
- work to ensure important or urgent matters are identified and actioned quickly.

Protecting consumers

Overview

100 staff:

- tackled issues affecting consumers through compliance, policy and educational work
- assessed 12,075 reports of crime and misconduct
- managed 2,018 applications about property of deregistered companies.

KEY RESULTS

	This year	Last year	% change
Reports of crime and misconduct assessed	12,075	10,752	+12%
Visits to our consumer website FIDO	785,000	615,000	+28%
Consumer warnings and alerts issued	27	23	+17%

Superannuation choice

To help prevent widespread mis-selling when employee superannuation choice began on 1 July 2005, ASIC staff worked to let industry know the standards expected and to track compliance.

We also randomly 'shadow shopped' 259 financial advisers who had advised consumers about super. While 80% of advice met legal standards, we found too many cases of unreasonable advice, especially where the adviser could get higher remuneration if their recommendation was followed, or the recommended product was associated with the adviser's licensee. We are following up problems with the businesses concerned.

We monitored superannuation advertising, and stopped misleading and deceptive advertising in 5 cases.

ASIC also contributed significantly to the government education campaign. We contributed staff and wrote scripts for the government call centre and the Super Choice website. *Super Choices*, the key government publication, was distributed to about 1.4 million people. There were 120,000 visits to our online superannuation calculator.

Financial services

By watching emerging consumer trends and using feedback from consumers, we identified key projects designed to draw public attention to important issues and to trigger changed behaviour.

Under-insurance	Our report on under-insurance following the Canberra bushfires led various major insurers to change their online calculators to give home owners more realistic estimates of rebuilding costs
Aboriginal communities	Persuaded the Commonwealth Bank to review 400 loans and implement new lending procedures after an extensive review found some loans left Aboriginal borrowers overcommitted
Reverse mortgages	Stopped misleading and deceptive conduct, reported on benefits and risks, released consumer information sheets and a reverse mortgage calculator
Debt collection	Issued guidelines jointly with the Australian Competition and Consumer Commission on debt collection practices. Issued a report about debt collectors making demands for payment of old debts. It showed they must do more to avoid potential breaches of the law



More action on reported crime and misconduct

We published an online questionnaire to collect information and complaints from Westpoint investors. We received 1,818 responses concerning approximately \$230 million invested, which helped focus our investigation and consumer information.

ASIC encouraged people to report suspected misconduct, and we dealt with 12,075 complaints, up 12%. Despite increased numbers, we finalised 81% in 28 days, well ahead of our 70% target.

Resolved, mainly through getting information people needed or by getting companies or company officers to comply	51%
Investigated or conducted surveillance	17%
Identified no offences or lacked jurisdiction to act	14%
Analysed, assessed and recorded	18%
Total	100%

In direct response to complaints, we sent over 800 warning letters to company directors and achieved overall compliance in 79% of cases. A further 502 company officers were prosecuted for 920 offences, most commonly involving conduct aimed at thwarting company creditors. Penalties included 2 community service orders, 35 good behaviour bonds, total fines and costs of \$1.05 million and disqualifications from managing corporations.

Liquidators, administrators and receivers lodged 7,292* reports. Of these, 5,796* reported suspected misconduct, up 7%.

Analysed, assessed and recorded	83%
Reports triggering further inquiries	14%
Resolved†	2%
Referred for compliance, investigation or surveillance	1%
Total	100%

* More than one report may be lodged about a single company or entity.

† Last year, due to an analytical error, we stated 7% of reports were resolved; it was in fact 1%.

Consumer education increased

To help consumers become better informed and more confident in using financial products and services, we increased our educational activities.

We issued 27 consumer alerts and warnings about financial issues and scams. We produced a 7-part radio series about money for 120 community radio stations.

Our consumer website FIDO received 785,000 visits, up 28%. (Our target of 1.2 million visits envisaged a major government financial literacy campaign would have been launched before July 2006.) Using expert actuarial advice and feedback from industry associations, we published new calculators for allocated pensions, term allocated pensions, reverse mortgages, and risk and return.

To help Australia's Aboriginal consumers, often victims of poor financial practices, we launched *Super and Us Mob*, to coincide with Super Choice, and a comprehensive guide on 'book up' (used by traders to allow consumers to purchase goods on credit). We also appointed our first Aboriginal field worker.

We delivered free training sessions to financial counsellors and Centrelink Financial Information Service officers, and spoke at selected consumer events across Australia.

Outlook

We will do more to protect and educate consumers, and maintain our strong standing among global regulators, especially in our region.

We will:

- help improve the quality of retail-level advice and disclosure
- contribute to earlier action against illegal investment schemes.

Consumer Advisory Panel report

In May 2006, I commenced my role as Chair of ASIC's Consumer Advisory Panel.

The Panel and I would like to thank the outgoing Chair, Fiona Guthrie, and retiring members, Bob Andrew and Jan Pentland, for their outstanding commitment and contribution to the Panel's work.

During the past year the Panel met four times. We advised ASIC on consumer issues and commented on ASIC's consumer protection activities. ASIC kept the Panel informed about its work and reported back on issues Panel members raised.

Members raised a broad range of issues, including consumer finance, particularly Aboriginal lending and 'low-doc' lending, conflicts of interest for financial advisers, high yield investments, debt collection, equity release products and financial literacy.

The Panel made specific recommendations to ASIC about funding of research and submissions for consumer protection. Three projects were funded:

- a report on the 'Treating Customers Fairly' initiative recently implemented under UK legislation
- a survey of the experiences of consumers re-financing their personal and household debt
- reprinting ASIC's *Book Up* guide for Aboriginal communities, which was initially developed in conjunction with the Panel.

Jenni Mack, June 2006
Chair, Consumer Advisory Panel

Consumer Advisory Panel Members

Jenni Mack (Chair)

Carolyn Bond, Consumer Credit Legal Service (Vic)

Nick Coates, Australian Consumers' Association

David Jackson, Australian Shareholders' Association

Elena Marchetti & Nicola Howell, Centre for Credit and Consumer Law

Wendy Schilg, National Information Centre on Retirement Investments

Leigh Shacklady, financial counsellor, Tangentyere Council, Alice Springs

David Tennant, Director, CARE Financial Counselling Service (ACT)

Retiring members

Fiona Guthrie (Outgoing Chair)

Bob Andrew, Australian Investors' Association

Jan Pentland, financial counsellor and Chair, Australian Financial Counselling and Credit Reform Association

FROM LEFT TO RIGHT: Bob Andrew, Stuart Wilson (Australian Shareholders' Association), Jenni Mack, Wendy Schilg, Leigh Shacklady, Carolyn Bond, David Tennant, Nick Coates, Nicola Howell



International cooperation

Overview

8 staff*:

- managed an increasing number of requests for assistance among regulators worldwide
- coordinated ASIC's contribution to stronger international cooperation.

* organisationally part of our Consumer Protection directorate

KEY RESULTS

	This year	Last year	% change
Overseas regulators requested our assistance	549	*509	+8%
ASIC requested overseas assistance	146	*200	-27%

* Last year's numbers restated to make calculation consistent

International requests for enforcement and other assistance between regulators grew strongly, with a total of 695 inward and outward requests for international assistance.

International cooperation

We served as an active member of the International Organization of Securities Commissions (IOSCO) and participated in its Executive and Technical Committees. We chaired the IOSCO taskforce about auditor independence in providing non-audit services and co-chaired another about implementing requirements for major listed entities to have independent directors.

Through IOSCO's Asia Pacific Regional Committee, we hosted a working group on regulating cross-border collective investment schemes, and seconded staff from the region who observed how Australia regulates securities and financial services.

To promote more consistent regulation between Australia and New Zealand, we signed a new Memorandum of Understanding with the NZ Securities Commission, held 3 meetings at Commission level, and also signed an MoU with the NZ Registrar of Companies.

Australia's financial sector assessed

The International Monetary Fund and the World Bank assessed the strength of Australia's regulatory and financial system, through their Financial Sector Assessment Program. Other countries in our region that have already been assessed include Hong Kong, New Zealand, Japan and Singapore. Australia's assessment report is expected later in 2006.

Outlook

We will manage the international issues affecting our domestic activities and extend assistance in our region.

Promoting compliance

Overview

187 staff*:

- promoted compliance with the law by 4,415 licensed financial services businesses, their representatives and employees
- monitored Australia’s capital markets to ensure that corporations, directors, advisers and market participants complied with the law.

* includes 24 staff working on corporate insolvency located in our Operations directorate

KEY RESULTS

	This year	Last year	% change
On-site compliance reviews of licensees completed	837	703	+19%
Full inspections of audit firms	10	4	+250%
Financially troubled companies visited	536	488	+10%
Additional disclosures to the market obtained	32	71	-55%
Corrective disclosure achieved in prospectuses	68	72	-6%
Corrective disclosure achieved in product disclosure statements	25	18	+39%

Superannuation choice and fund switching

Shortly after Super Choice came into effect, we reported on how selected businesses had been advising their clients about switching super funds. Much of the advice revealed little or no consideration of the client’s current fund, and strongly tended to recommend clients switch to a fund related to the licensee.

We conducted an extensive surveillance of AMP Financial Planning Pty Limited’s (AMPFP) operations between October 2005 and April 2006. We found that on many occasions, AMPFP:

- planners’ files did not disclose a reasonable basis for advice
- failed to make proper disclosures about the costs of acquiring the recommended product and the significant consequences of replacing the existing product
- made statements that suggested AMPFP Planners could consider a broader range of products than permitted, which could have misled consumers
- may not have had adequate arrangements in place to manage conflicts of interest.

In July 2006, we accepted a legally binding commitment from AMPFP to modify key aspects of how it advises its customers.

We began proceedings against First Capital Financial Planning Pty Ltd for not giving their clients essential information about the super fund that First Capital was recommending.

We reviewed 100 superannuation product disclosure statements and secured numerous improvements to the quality of disclosure. We stopped a number of misleading fund advertisements. For example, Navigator withdrew its campaign because of our concerns about how the advertisement compared Navigator's returns with an unnamed industry fund.

Financial services

We maintained constructive pressure on the industry to improve standards, focusing much attention on how the industry dealt with conflicts of interest. Since January 2005, all financial services licensees must have adequate arrangements to manage any conflicts of interest that arise in providing financial services.

BBY Limited, stockbrokers	Imposed a licence condition because the company did not have adequate arrangements for managing conflicts. The company must engage a consultant to review its compliance arrangements and take necessary corrective steps
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Investment banking	Examined conflict handling procedures at two investment banks. Contributed to a paper for discussion about managing conflicts
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The BBY Ltd action and our discussion paper led a number of other licensees to review their practices in handling conflicts between their corporate advisory and proprietary dealing desks.

Licensees must notify ASIC if they breach conditions of their licence. To assist the industry generally, we published a guide that explained what ASIC does with the breach notifications and a form for notifying breaches. We identified 100 licensees who had not reported any breaches, and reviewed their procedures.



Deterring insolvent trading

The government granted ASIC additional funds to pay liquidators of assetless companies to report and document suitable cases for banning directors of failed companies or for enforcement action against phoenix activity, directors duty breaches or insolvent trading.

For potential banning actions, we visited 120 insolvency firms to explain the new arrangements, and received 141 funding applications. Phoenix activity, directors duty breaches and insolvent trading cases may require more detailed investigation. We expect to receive our first applications in 2006–07.

To help companies deal promptly with financial difficulties, staff visited 536 potentially troubled companies. (Since this program began, we have reviewed 1,634 companies.) After these visits from our insolvency specialists, many companies restructured, refinanced, or introduced turnaround strategies with professional advice. This year 95 companies had an insolvency practitioner appointed after our visits, including Australis Mining Corporation Ltd, Oak Park Constructions Ltd, and Neolido Holdings Pty Ltd.

Auditor compliance and international accounting standards

Audit standards now have the force of law. Our first on-site inspections of the four major audit firms (who audit 54% of all entities listed on the Australian Stock Exchange) found no breaches of the law. We did suggest some improvements in the arrangements of each of the firms.

We expanded our activities to include systematic surveillances of mid-tier audit firms and also reviewed issues of auditor quality in addition to audit independence. We accepted enforceable undertakings from PKF Melbourne auditors and PKF Victoria in relation to audits carried out in relation to Poltech International Limited and Astro Mining NL.

We also undertook surveillance of listed entities' accounts, and found that listed entities were generally well prepared for the transition to international accounting standards.

Better disclosure for investors

We obtained better disclosure in offer documents seeking a total of \$10 billion in capital, including four out of the five largest initial public offerings.

We warned issuers about the excessive length and complexity of disclosure documents. Some documents have been 200 pages or more long. Recognising that issuers and advisers must re-think how they write their documents, we discussed with issuers how to make them shorter and more understandable.

We stopped offer documents that were not clear, concise and effective, and obtained corrective disclosure for consumers and investors in 92 prospectuses and product disclosure statements.

Action on high-yield investments

High yield fixed interest investments, involving high risk activities like property development, were aggressively marketed to retail investors. Although lawful, such marketing increased the risk of mis-selling.

We obtained court orders against Fincorp Investments Limited requiring the company to offer certain investors all their money back, including accrued interest, and we also required Fincorp to correct its advertising.

We also examined other debenture issuers and mortgage funds, including Sovereign Capital Limited, City Pacific Limited, Australian Capital Reserve Limited and Bridgecorp Finance Limited.

Outlook

By influencing those who participate in the capital markets and the financial services industry, we will promote lawful behaviour and raise ethical standards.

We will:

- develop early and effective regulatory interventions to respond to losses and misconduct related to complex products
- improve the quality of retail-level advice and disclosure
- carry out the new corporate insolvency reforms
- more effectively coordinate intelligence.

Regulatory work

Overview

137 staff, including the Office of Chief Accountant:

- developed policy and researched emerging issues in the market
- regulated Australia's 15 licensed financial markets and 5 clearing and settlement facilities
- licensed 428 new financial services businesses and registered 499 new managed investment schemes
- considered 3,405 applications for relief from the law and granted 2,565.

KEY RESULTS	This year	Last year	% change
Policies and guidance documents issued	22	29	-24%
Commercial relief applications approved	2,565	2,993	-14%
Assessments of authorised financial markets completed	*19	10	+90%
Australian financial services licences issued	428	401	+7%
Managed investment schemes registered	499	590	-15%
Takeovers and schemes of arrangement assisted	98	100	-2%

* Increase resulted largely from timing of assessments

Financial services

The government and ASIC worked together on important refinements to financial services regulation, to benefit consumers and reduce unnecessary burdens on industry. We issued guidance to consolidate these reforms to the financial services industry and to prepare for Super Choice.

Simpler statements of advice	A guide and sample statement of advice issued which illustrated how it could be done while meeting legal requirements
Online calculators	Relief granted so they can be offered without issuing formal statements of advice to every user
'General advice only' warnings	Relief granted so product issuers and advisers can give simpler warnings when they give general, but not personal, advice for example through call centres or the media
Non-cash payment facilities	A guide and some relief granted, notably for low-value facilities, gift cards, prepaid mobile phone accounts and loyalty schemes
Conflicts of interest	A discussion paper on managing conflicts of interest in the financial services industry
Better prospectuses	Draft policy for issuers and advisers, including guidance on clear, concise and effective disclosure
Super Choice	A guide for financial advisers when giving personal advice on switching super funds

Auditor regulation

Following major corporate failures, new and more demanding standards for company auditors were introduced. To promote compliance, we:

- worked with the Auditing and Assurance Standards Board to prepare auditors for revised audit standards that will be legally enforceable after 1 July 2006
- explained when ASIC may grant relief from the legal obligations requiring rotation of company auditors
- communicated results from our inspections of company auditors
- contributed to the Financial Reporting Council's work in monitoring standard setting and auditor independence.

We also worked with our counterparts in other countries to streamline regulation of cross-border audit activity. To share information, Australia hosted a roundtable of 12 international audit regulators in March 2006.

New international financial reporting standards

New financial reporting standards came into effect for financial years commencing 1 January 2005. The transition was generally well managed. We worked closely with government, standard setters and industry.

We encouraged companies to focus on the transition process and monitored the transition through our surveillance of listed entity financial reports, and communication with industry.

Markets regulation

On our advice, the Minister granted 3 new licences, including to the Chicago Board of Trade.

We assessed 19 markets and clearing and settlement facilities, including the Australian Stock Exchange (ASX) and Sydney Futures Exchange (SFE). These reports were made public. Overall we found that market licensees have adequate supervision structures and procedures, and that there can be a high degree of confidence in their ability to operate their markets in a fair, orderly and transparent manner.

The ASX and SFE announced they intended to merge (subsequently did so in July 2006). We

will be having detailed discussions with ASX as the merger is implemented to ensure that Australia's most important markets remain well supervised and regulated.

Overall, we regulated 15 authorised financial markets, and 5 licensed clearing and settlement facilities.

Licensing streamlined

We launched a new financial services licensing kit and streamlined licence applications, reducing the paperwork required by more than 50%. In making these changes, we maintained the standards required of licence applicants.

We issued 428 new licences, approved variations to 611 existing licences and were notified of 1,605 changes in responsible officer.

Applications and advice

We considered 3,405 applications for relief from the law (and granted 2,565) from businesses of all sizes to alleviate unintended consequences if the law were strictly applied. Applications commonly concerned:

- schemes of arrangement, takeovers and other changes of corporate control
- fundraising and stapling of securities
- making financial services laws operate more smoothly.

To increase transparency and better inform people about decisions we make, we reported on a number of recent decisions on applications for relief by financial service providers. Next year, we will extend the types of matters we report on.

Outlook

Better regulation can maintain standards and protect Australians, while allowing companies and financial services businesses to operate profitably.

We will:

- improve ASIC's accessibility, transparency and engagement with all the stakeholders in our broad and complex regulatory environment
- rationalise and redesign our regulatory documents.

Operations, public information and staff

Overview

480* staff:

- maintained Australia's public database of 1.5 million companies
- managed information technology, human resources, planning and project services.

* Includes 26 full-time graduates working for other directorates and excludes 24 staff working on corporate insolvency work described on page 28.

KEY RESULTS

	This year	Last year	% change
Searches of ASIC databases (free and paid)	45 million	36 million	+25%
Company data lodged on time	94%	94%	steady
New companies registered	121,298	121,463	steady
% documents lodged electronically	71%	69%	+3%
Telephone inquiries answered	770,000	784,000	-2%
Fees and charges raised for the Commonwealth	\$543 million	\$531 million	+2%
ASIC staff employed	1,471	1,570	-6%

More use of online public information

People conducted 45 million free and paid searches of our databases, up 25%. Continuing demand for online services over recent years contributed to the closure of our four smallest service centres (foreshadowed in last year's report). We replaced our mainframe to meet this demand.

The total number of companies registered in Australia increased 4% to 1,480,684 and the number of new companies formed was steady compared with last year. (The government's decision to reduce the one-off fee for registering a company from \$800 to \$400 from July 2006 may encourage more companies to be formed.)

Maintaining quality company data

To maintain quality data, 51,624 companies were targeted to ensure compliance with the law. Some 502 civil actions were undertaken to ensure lodgement of financial reports by large proprietary companies, managed investment schemes, foreign companies, and unlisted public companies. We also acted to require companies to appoint at least

the minimum number of officeholders and to remove bankrupt officeholders. We began deregistration of 26,915 companies that failed to pay their annual review fee.

We processed 91% of key documents (company registration, critical changes and creation of company charges) within 48 hours, above our target of 90%.

Super Choice and helping people over the phone

Our client call centre backed up the government's main superannuation choice enquiry line by handling calls that came direct to ASIC. We also helped write the scripts used by all agencies on Super Choice.

We set up special 1300 numbers to assist people who had lost money through the Westpoint collapse and those affected by Cyclone Larry.

Overall, we assisted 770,000 people over the phone on all the matters for which ASIC is responsible.

Developing our people

To develop our managers and leaders, some 200 managers participated in management development workshops and 70 high potential employees attended the Mt Eliza executive development program.

We also worked to make ASIC's increased investment of \$1.2 million in staff development more cost-effective. Overall, we delivered 92 development programs, with 6,074 attendances.

We expanded our graduate recruitment program with 26 new graduates participating in a 12-month rotation program.

Improved safety at work

Overall, fewer staff were hurt at work, and those who did were helped more promptly and were able to return to work more quickly. Incidents reported fell 6% to 63, generally involving minor injury, with 140 days lost. The cost of claims fell 51%, and the number of claims fell 43%. ASIC's insurance premium of 1.20% of annual payroll compared favourably with Comcare's standard agency rate of 1.77%.

A new occupational health and safety (OHS) and workers' compensation unit managed injury claims and coordinated safety at ASIC, including:

- quarterly OHS risk assessments at all sites
- ergonomic assessments, screen-based eye tests, and other protective measures
- quarterly employee wellness expos
- OHS awareness.

OHS committees met quarterly in each location to address local issues. ASIC required every manager to take responsibility for ensuring a safe workplace for their staff and the public, supported by human resources staff.

Equal opportunity and merit

ASIC is an equal opportunity employer. Excluding contractors and agency temporary employees, women made up 43% of our executives, senior executives and Commissioners, up from 40%, and comprised 57% of our employees (unchanged).

Classification	Gender	This year	Last year
Commissioners	Female	1	1
	Male	2	2
Senior Executive Service*	Female	13	14
	Male	14	20
Senior operational staff (EL1 and EL2)	Female	243	230
	Male	327	341
Operational and support (ASIC 1–4)	Female	532	584
	Male	255	268
Other	Female	9	8
	Male	15	11
Contractors and agency temporary employees		60	91
Total		1,471	1,570

* refers only to Senior Executive Service staff under the Public Service Act

Under a joint Women in Law Enforcement Strategy, 7 female ASIC staff joined a one-year mentoring program with mentors from other agencies, and a Commissioner and 6 ASIC senior managers acted as mentors to women from other agencies.

ASIC required that all staff engagements and promotions be conducted in accordance with the merit principle and the APS values.

We participated in the Commonwealth strategy to ensure access to recruitment, training and grievance procedures for people with disabilities, see page 49.

Industrial and workplace relations

Staff supported a new Certified Agreement that took effect from August 2005. About 46% of staff are employed under Australian Workplace Agreements.

Staff were represented either through their union or staff representatives. ASIC also convened a National Consultative Committee about workplace issues. No industrial disputes occurred.

ASIC also maintained formal procedures for staff to raise grievances. We received four formal applications for review of management actions under the Public Service Act.

Employee profile

Our employee profile reflected our need for skilled, professional people, typically investigators, lawyers, accountants, and analysts; information processing and customer service staff; information technology, human resources, financial, business management and communication specialists.

Staff (average full-time equivalents)	This year	Last year
Operational and support (ASIC 1–4)	787	852
Senior operational staff (EL1 and EL2)	570	571
Senior Executive Service	27	34
Others (contractors, agency staff, consultants)	84	110
Commissioners	3	3
Total	1,471	1,570

Ongoing staff, consultants and contractors

Most staff are ongoing under the Public Service Act. We employed fewer non-ongoing staff (either as contractors or consultants), especially in IT. Non-ongoing staff, contractors and consultants worked on special projects, in specialised areas including law, accounting, and information technology, and for peak workloads in document processing.

Basis of employment	This year	Last year
Public Service Act, ongoing	1,171	1,171
Public Service Act, temporary, most often for peak company data processing	198	262
ASIC Act consultants, for essential specialist services including investigatory, legal, corporate regulatory and accounting functions	39	43
Contractors, mainly in information technology	60	91
Commissioners	3	3
Total (average FTE over the year)	1,471	1,570

ASIC contributed to superannuation through Australian Government schemes, State government schemes for staff who transferred to ASIC in 1991, and private sector schemes for consultants or contractors. See also the financial statements on pages 71 and 81.

Location of staff

Most staff worked in our Sydney and Melbourne offices, reflecting market and corporate activity. The Information Processing Centre in Traralgon, Victoria, is our third largest office.

State or Territory	This year	Last year
Victoria	629	676
New South Wales	539	587
Queensland	130	131
Western Australia	87	90
South Australia	51	50
Australian Capital Territory	15	15
Tasmania	14	13
Northern Territory	6	8
Total	1,471	1,570

Information technology reform

During the past two years, we have successfully completed some major IT reform projects. In addition, core technology infrastructure components have been successfully upgraded while maintaining a 99% system availability rate to all technology users.

The IT strategy for the next 4 years has also been developed, and funding secured for the first 18 months of this technology strategy and associated transition.

Outlook

To ensure that ASIC can meet future challenges, we must strengthen the effectiveness and efficiency of our operations.

We will:

- drive improvements in our operational performance
- implement reforms to our information technology, IT security and risk management
- develop our employment framework strategy, talent management and succession planning.

Finance and corporate services

Overview

117 staff delivered the following services to all ASIC offices:

- finance
- corporate services
- risk management, see page 44
- knowledge management.

KEY RESULTS

	This year	Last year	% change
ASIC operating expenses	\$218m	\$208m	+5%

Major funding boost from government

In the May 2006 budget, we received an additional appropriation of \$235 million over 4 years to:

- ensure that ASIC has sufficient funding to maintain its current regulatory focus: \$71 million
- increase its surveillance capability and develop its presence in relation to non-exchange based market trading: \$29 million
- enhance IT security and risk mitigation: \$14 million
- establish a new electronic registration system for company charges: \$2 million.

The extra funding also included \$30 million per year, set aside over the next 4 years, to investigate and litigate exceptional matters of significant public interest. This funding is available only when the cost associated with an individual enforcement action exceeds \$1.5 million.

Major property review boosts efficiency

Leased properties comprised our largest single expense, apart from salaries. With an expected increase in staff, we negotiated new leases for 3 of our 4 largest offices to secure efficient use of space.

- **Melbourne:** proposed relocation will replace outdated, inefficient and ergonomically poor fit out. More flexible office layout will accommodate 10% more staff within less space

- **Traralgon:** negotiated significant rent reductions and incentives which will improve facilities and let us relinquish accommodation previously used to hold ASIC's microfiche records
- **Perth:** reconfigured office layout to accommodate 10% more staff within a reduced space.

As foreshadowed in last year's annual report, ASIC relinquished office space from closing 4 small service centres in Newcastle, Gold Coast, Geelong and Townsville.

Better financial management and reporting

We further refined systems and procedures for more timely and accurate reporting and internal budgeting. We reduced the turnaround time for completing our 2004–05 audited financial statements and for developing more accurate internal budgets.

The transition from existing Australian accounting standards to the Australian equivalents to International Financial Reporting Standards (AEIFRS) required us to prepare additional note disclosures that detailed the impact that AEIFRS would have following their adoption. All transitional adjustments have since been posted to ASIC's ledger to allow AEIFRS compliant comparatives for 2004–05 to be reported in the 2005–06 financial statements.

Unclaimed money

The amount of unclaimed money collected from banks, life insurance companies and approved deposit-taking institutions amounted to \$176 million in 2005–06 (\$53 million in 2004–05). This increase primarily resulted from two prominent companies rationalising their share registers.

Oversight and accountability changes

In response to recommendations made by Mr John Uhrig about public sector corporate governance, the government decided that from 1 July 2007 ASIC will operate under the *Financial Management and Administration Act, 1997* (FMA), and not under both the *Commonwealth Authorities and Companies Act 1997* and the FMA Act.

This change will affect procurement, financial delegations, external reporting and other processes. Planning is well advanced to achieve a seamless transition.

Environmental performance

We have committed ourselves to continuously improving ASIC's environmental performance.

We maintained certification of ASIC's Sydney office to International Standard ISO 14001:2004 *Environmental Management Systems*.

The following targets were set for improved performance in our accredited Sydney site:

- electricity consumption: reduce by 5%
- commingled recycling (glass, aluminium, plastic): increase by 10%
- paper recycling: increase by 5%.

We will implement systems so that ASIC's new Melbourne office can be certified in 2006–07.

Knowledge management

To build and share the skills and knowledge of our people, we maintained 12 knowledge networks (communities of practice) that met regularly to discuss such specialist areas as managed investments, superannuation, insolvency and compliance. Twenty-four guest speakers from external organisations spoke at network meetings.

Outlook

To develop a more flexible organisation, we will:

- achieve and maintain adequate funding
- manage our property and facilities to capture greater efficiencies
- extend our environmental management systems.

Motor vehicles	52% of fleet vehicles (an improvement of 14%) and 41% of our senior executive service fleet have a 'Green Vehicle Guide' rating of 10.5 or better. ASIC joined as a supporter of Green Fleet
Paper consumption	Printers set to default duplex printing nationally, reducing paper consumption by 9.7%
Energy consumption	Use per person of 10,429 MJ, higher than target of 10,000 MJ, due to special purpose short-term accommodation. We expect a significant improvement in 2006–07
Recycling	Most sites recycle paper. Some also recycle aluminium, plastics, mobile phones and batteries