



A YEAR OF **change**

ASIC Annual Report

07–08



ASIC

Australian Securities & Investments Commission

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ASIC

Australian Securities & Investments Commission

TONY D'ALOISIO

Chairman

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1 August 2008

Senator the Hon Nick Sherry
Minister for Superannuation and Corporate Law
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with subsection 136(1) of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), I am pleased to present you with the annual report of the Australian Securities and Investments Commission for the year ended 30 June 2008.

The report has been prepared in accordance with section 136 of the ASIC Act and the *Requirements for Annual Reports for departments, executive agencies and FMA Act bodies*, approved by the Joint Committee of Public Accounts and Audit in June 2008.

The theme of our report is 'A Year of Change', to emphasise ASIC's responses to the changes in the markets and its internal changes to better position ASIC to meet challenges now and in the next three to five years.

I note that, under subsection 136(3) of the ASIC Act, a copy of this report will be tabled in each House of the Parliament within 15 sitting days of that House after the day on which you receive the report.

Yours sincerely

Tony D'Aloisio
Chairman



Our people at work.

manage

ASIC AT A GLANCE

Our role

To enforce company and financial services laws. Our aims are outlined in section 1(2) of the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

Our vision

For our functions in the financial economy, to exercise our powers to make a real difference in improving confidence in financial market integrity and protecting investors and consumers.

For our functions in the real economy, to deliver outstanding and cost-effective services.

For our priorities and outputs, see pages 14–31.

Our 2007–08 achievements

For our highlights of the year, see pages 4–5.

Our activities

Within the priorities we have set, during the year under review we regulated Australia's 1.6 million corporations, 4769 financial services businesses and 17 financial markets.

We worked to improve Australia's financial system, covering superannuation, managed funds, insurance, credit, deposit-taking and financial advice.

We cooperated with Australian and international regulatory bodies, see page 24.

Our people

At 30 June 2008, we employed 1669 ongoing and non-ongoing employees in offices in every state and territory, see pages 34 and 43–44.

Our budget

Our operating expenditure budget for 2007–08 was \$274 million, see page 10.

Governance

We are a Commonwealth Government body, led by three full-time Commissioners, accountable pursuant to the ASIC Act to the Minister and the Parliament and through administrative and judicial review, see page 39.



OUR KEY ACHIEVEMENTS

FINANCIAL ECONOMY

1 Consumers and retail investors

- assisted investors to better understand unlisted, unrated debentures
- actively pursued wrongdoing in financial services, corporations and superannuation funds
- promoted investor education and financial literacy

2 Capital market integrity

- increased surveillance to curb insider trading and other market abuses
- worked with the Australian Securities Exchange (ASX) to speed up investigations from referrals
- actively prosecuted cases of insider trading and market manipulation
- pursued significant enforcement matters (e.g. AWB, James Hardie)

3 Facilitating capital flows

- implemented trans-Tasman Mutual Recognition of Securities Offerings (MRSO)
- made significant progress in mutual recognition, including with the United States
- reached agreement with the China Banking Regulatory Commission (CBRC)
- reached agreement with the Hong Kong Securities and Futures Commission on the mutual recognition of collective investment schemes

STAKEHOLDER SURVEY

Our Strategic Review drew on the views of the 1250 respondents to a stakeholder survey conducted to help identify what we did well and where we needed to improve.

The stakeholder survey was conducted by the Allen Consulting Group and stakeholder responses were collected through three separate surveys of business, consumers and ASIC staff. Some of the results of the business and consumer surveys are presented in this report.

The full survey results are available at www.asic.gov.au/strategicreview.

REAL ECONOMY

4 Helping small and medium business

- increased efficiency and lowered costs through a range of innovations that reduced red tape
- introduced electronic registration and payment service for approximately 200,000 of the documents we receive and process each year
- targeted phoenix trading
- introduced a 1300 number for all our clients

5 Lifting operational effectiveness

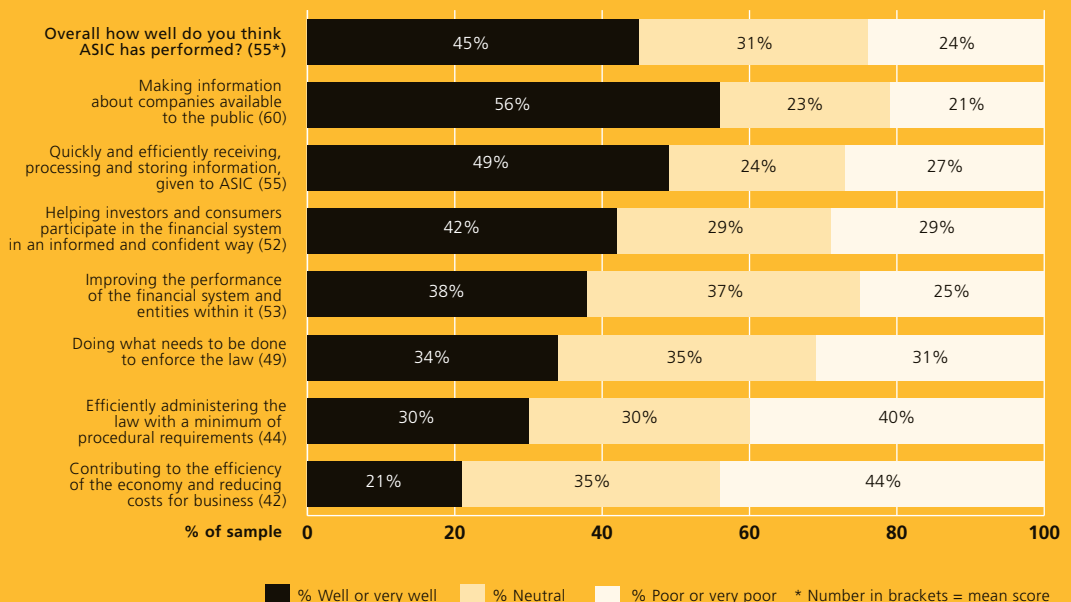
- selected a new enterprise content management system as part of a 4-year phased technology upgrade
- increased direct liaison with industry sectors we regulate
- finalised 11,436 complaints

6 Strategic Review

- completed stakeholder survey
- committed to increase investment in research and analysis
- created a new, flatter structure
- established 20 outwardly focused stakeholder and deterrence teams covering the financial economy
- increased investment in training and development to build staff credentials

ASIC's overall performance

Source: Allen Consulting Group survey of ASIC stakeholders



CHAIRMAN'S REPORT

ASIC is working hard to become more agile, market-oriented and better informed about the areas we regulate and facilitate. We are focusing on outcomes that have a real impact on improving confidence in the integrity of our markets and on encouraging freer flows of capital between Australia and countries such as the United States, Japan, New Zealand and China, and also Europe and Hong Kong. As we improve processes, leverage technology and cut red tape, ASIC is also becoming more efficient and easier to deal with.

I am pleased to present this year's Annual Report on behalf of the Commission after my first full year as ASIC Chairman.

Among the first steps we took soon after I became Chairman in May 2007 was to launch a review of ASIC's operations to ensure we are well positioned to meet the regulatory challenges of the changing economic environment in the next three to five years. Australia's regulatory regime proved robust in the face of the market downturn; however, as this report outlines, there is scope to improve the way we regulate and supervise our markets.

ASIC was pleased to welcome Belinda Gibson as a Commissioner. Her three-year term commenced on 5 November 2007. On 10 December, Commissioner and former Chairman Jeffrey Lucy left ASIC to take up his appointment as Chairman of the Financial Reporting Council.

Our priorities

Over the past year, ASIC's operations were guided by six priorities, which I outlined in last year's Annual Report. In this Report, we detail our achievements against these priorities. They comprise three financial economy priorities focusing on retail investors, capital market integrity and developing our capital markets; two real economy priorities focusing on helping small and medium business and lifting operational effectiveness; and our Strategic Review.

The *financial economy* refers to the financial markets that are relied on by the real economy and by consumers of financial products and services. Here, ASIC exercises its powers to improve confidence in capital market integrity and protect investors and consumers. The *real economy* is that part of the economy that produces goods and services, with ASIC responsible for its legal infrastructure (such as company registration, registration of charges and the issue of licences).

Financial economy

To exercise our powers to make a real difference in improving confidence in financial market integrity and protecting investors and consumers.

1 Consumers and retail investors

We promoted the interests of consumers and retail investors through a wide range of research, education and enforcement activities. This included forming a Retail Investors Taskforce charged with identifying ways to help investors manage their investments and protect their wealth.

During the year, ASIC developed a three-point plan to help investors better understand unlisted, unrated debentures. We introduced disclosure and advertising guidelines for the issuers of these products. We also issued guidance to help investors better understand the risks involved in investing in unlisted, unrated debentures.

We began to apply similar principles to the unlisted mortgage and property scheme sectors and will continue this work.

In our investigation into the collapse of the Westpoint property group, which is coming to an end, we took decisive action to obtain compensation for investors under section 50 of the ASIC Act.

Our investigations into Fincorp Investments Ltd (Administrators Appointed) and Australian Capital Reserve Ltd (ACR) are continuing.

2 Capital market integrity

A key part of ASIC's role is to maintain and improve confidence in and the integrity of our capital markets. This year, we increased our surveillance activity to further curb insider trading and other market abuses, worked closely with auditors and liquidators to promote compliance, and issued updated guidelines for the creation of expert reports.

We worked with the Australian Securities Exchange (ASX) to speed up the notification of referrals of market matters and minimise the time between the alleged misconduct and enforcement action. During the year, we acted on 88 referrals from the ASX of suspicious transactions and possible contraventions. At year's end, we were assessing 16 matters, investigating 30 and considering other remedial action (such as licensing action) for 20 matters.

In addition, at 30 June, we had five markets matters before the courts. During the year, we referred nine markets matters to the Commonwealth Director of Public Prosecutions (CDPP) and we obtained convictions in a further six matters.

We also have extensive inquiries and investigations under way relating to allegations of spreading false rumours in the market to undermine company share prices, in addition to our customary reviews for insider trading and market manipulation activities. We are investigating the failure of Opes Prime and whether the firm complied with the *Corporations Act 2001* (Corporations Act) when it extended a stock lending model traditionally used in the wholesale market into the retail market.

During the market turbulence in early 2008, together with the ASX, we reminded the market of a number of obligations. We gave guidance on the disclosure of material information relating to the financial arrangements of listed entities and the margin loans held by company directors; guidance on the disclosure of substantial interests held by stock lending participants; and warnings against starting false or misleading rumours and the consequences of such activities.



3 Facilitating capital flows

ASIC is facilitating capital flows (balanced with protection of Australian investors) between Australia and key international markets for Australia by pursuing recognition agreements with overseas regulators.

We are also focusing on international cooperation initiatives, research and education, and collaborating with a number of countries to achieve this goal. For example, ASIC and the Department of the Treasury have been working on

an initiative to allow US and Australian securities exchanges and market participants to operate in each other's markets. We are also working with the Monetary Authority of Singapore.

The governments of Australia and New Zealand recently exchanged letters, marking the commencement of the Mutual Recognition of Securities Offerings (MRSO) scheme. ASIC recently signed an agreement with the Hong Kong Securities and Futures Commission that will allow Australian and Hong Kong retail investors to access a broader choice of financial products in Australia and Hong Kong.

In addition, ASIC and the China Banking Regulatory Commission (CBRC) have formalised an agreement that will allow greater investment from China in Australia's capital markets. This agreement will result in Australia being a more likely destination for China's capital investment, leading to more liquidity in the Australian stock market.

Real economy

To deliver outstanding and cost-effective services.

4 Helping small and medium business

We introduced a range of innovations aimed at reducing red tape, increasing efficiency and lowering costs for the more than 1.6 million companies that interact with us annually. We have made it easier for companies to lodge forms, make payments and complete other processes via the internet, and we have streamlined internal business processes. ASIC also targeted phoenix company activity, which often leaves small and medium businesses as unsecured creditors.

5 Lifting operational effectiveness

Over the year, we have actively worked to refine our 'business as usual' operations. This included improving a wide range of stakeholder services, such as introducing one 1300 number for all ASIC contact centres, and measures to ensure we deliver better cost-benefit outcomes for stakeholders.

We also stabilised our existing information technology infrastructure and launched six project streams as part of a four-year phased technology upgrade that will improve services for business, consumers and retail investors, and for our people.

ASIC will expand its enforcement activities with an additional focus on international investigation in such areas as internet fraud, in cooperation with overseas regulators.

6 Strategic Review

ASIC conducted and completed a wide-ranging Strategic Review of its operations to ensure the organisation is well positioned for the challenges of the next three to five years. This was preceded by an extensive stakeholder survey, the results of which are on our website and reproduced in part in this Report.

The results of the Review and the plan for implementation were announced on 8 May 2008. The transition will be completed by 1 September 2008 and will include:

- increased investment in research and analysis
- appointment of an experienced External Advisory Panel
- abolition of 4 directorates in favour of 20 outwardly focused stakeholder and deterrence teams covering the financial economy
- creation of a flatter structure, in part by the reduction of two layers of senior management to one, and
- a new approach to developing our leaders and building credentials for our people.

Improvement in the skills of our people through training and development and through recruitment will be a key feature of being able to deliver the improvements from the Review.

Summer School

In February, we hosted our 13th ASIC Summer School in Melbourne, a conference dedicated to exploring and debating issues significant to the efficient operation and regulation of financial services, and to capital and corporate markets within Australia and internationally. Speakers

from the business, financial services and regulatory communities explored the 'Our Financial Markets: The Big Issues' theme at a time of market turmoil. A report of the Summer School is available on our website at www.asic.gov.au/summerschool.

ASIC funding

Our expenses increased to \$274 million to meet operational costs, including maintaining the increased expenditure on enforcement activities that occurred in 2006–07. Employee expenses are our largest outlay and they increased to \$165 million, reflecting our focus on staffing of compliance and enforcement matters. We received \$282 million in appropriations and \$10 million in revenue from the sale of services, interest and other sources, including \$3 million in recoveries for court and investigation costs. Our \$18.2 million surplus is a result of a timing difference between the recognition of appropriation received and expenditure on a significant IT project. The unspent appropriation will be used in future financial periods to fund this initiative. See our Financial Statements on page 64.

The year ahead

In addition to the five real and financial economy priorities announced in 2007, ASIC will be focusing on two additional priority areas in 2008–09.

Continuing to manage market turbulence

This will involve developing a range of measures to reduce the impact of, and quickly respond to, future volatility. ASIC will continue to focus on managing the domestic and international implications of global financial turmoil by looking at the role of investment banks, credit rating agencies and other market participants to ensure that retail investors and consumers are protected.

Expanding enforcement

ASIC will expand its enforcement activities with an additional focus on international investigation in such areas as internet fraud, in cooperation with overseas regulators.

An important feature of ASIC's business is working closely with other Government agencies, such as the Australian Prudential

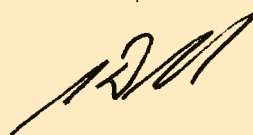
Regulation Authority (APRA) and the Australian Competition and Consumer Commission (ACCC), and with the ASX. This cooperation provides valuable underpinning to our activities. We look forward to working constructively with all our stakeholders in the coming year.

In June 2008, the Government released the Green Paper on Financial Services and Credit Reform for discussion. The paper deals with the Council of Australian Governments' in-principle decision to transfer a significant range of state regulatory responsibilities in financial services to the Commonwealth, including mortgage credit and advice, margin lending, non-deposit taking institutions and trustee companies. The Minister for Superannuation and Corporate Law has advised that it is reasonable to anticipate that most or perhaps all of those responsibilities will transfer to ASIC in the federal jurisdiction.

We will be building on our ASIC in the Community initiative. Launched in 2007, this fosters the engagement of ASIC's people with the wider communities in which we live. In addition to our staff giving program, which supports 20 charities, and actions to reduce our environmental footprint, we will shortly be launching a volunteering program.

From 1 July 2008, we assumed responsibility for the Financial Literacy Foundation and will draw together the work of ASIC and the Foundation to promote financial literacy in our school system. We will also draft and consult on a new national financial literacy strategy to promote initiatives that result in Australia's consumers and retail investors not just understanding money matters better but also achieving good financial outcomes. The Foundation's Board will continue with its advisory role.

I would like to thank our people for their considerable efforts over the year and their focus on our existing and new priorities. There is much to be done but I am confident that we have the people and revitalised structure in place to realise our goals.



Tony D'Aloisio
Chairman

FINANCIAL SUMMARY

Table 1: ASIC's use of taxpayers' money for the outcome approved by Parliament

	2007–08	2006–07	2005–06
Operating expenses			
Total	\$274m	\$256m	\$218m
Annual change	+7%	+17%	+5%
Fees and charges raised for the Commonwealth			
Total	\$545m	\$519m	\$543m
Annual change	+5%	–4%	+2%
Parliament funds ASIC to achieve the outcome of 'a fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of		investors and consumers'. To achieve this outcome, we delivered four outputs, with enforcement activity representing 51 per cent of expenses.	
ASIC outputs*	2007–08	2006–07	Change
1 Policy and guidance about laws administered by ASIC, see page 56. Increased expenditure arising from the establishment of a strategy directorate and ongoing regulatory policy activities, including our Better Regulation program.	\$18m	\$16m	+13%
2 Comprehensive and accurate information on companies and corporate activity, see page 57. Expenditure levels in real terms maintained, allowing ASIC to apply the benefits of a 10% reduction in costs achieved in 2006–07 to compliance and enforcement activities.	\$47m	\$45m	+4%
3 Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity, see page 58. Allocation of additional resources to strengthen ASIC's surveillance capability.	\$68m	\$60m	+13%
4 Enforcement activity to give effect to the laws administered by ASIC, see page 60. Maintained in real terms the 32% increase in enforcement expenditure that occurred in 2006–07.	\$141m	\$135m	+4%
Total	\$274m	\$256m	+7%

* Internal service costs are apportioned to these outputs.

We raised \$545 million for the Commonwealth in fees and charges, up 5 per cent and largely reflecting an increase in the number of newly incorporated companies over recent years.

Our expenses increased to \$274 million to sustain operations and to maintain the increased expenditure on enforcement activities that occurred in 2006–07. Employee expenses, our largest outlay of \$165 million, increased by 11 per cent, reflecting ASIC's focus on staffing compliance and enforcement matters.

Parliament funds ASIC to achieve the outcome of 'a fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers'.

We received \$282 million in appropriations and \$10 million in revenue from the sale of services, interest and other sources, including \$3 million in recoveries for court and investigation costs. Our \$18.2 million surplus is a result of a timing difference between the recognition of appropriation received and expenditure on a significant IT project. The unspent appropriation will be used in future financial periods to fund this initiative. See our Financial Statements on page 64.



REGULATING DURING MARKET TURBULENCE

Many financial asset prices fell in 2007–08 after sustained rises through preceding years. From 1 July 2007 to 30 June 2008, the All Ordinaries Index of stocks listed on the ASX fell by 15.5 per cent. During the month of January 2008, this key measure of share market value declined by 11.3 per cent – its largest monthly decline since the 1987 market crash – representing a loss in that month alone of \$170 billion in market capitalisation. Over the year, Australia witnessed some significant financial shocks, including the failure of some managed investment schemes and unlisted, unrated debenture issuers. A similar pattern of shocks was experienced in other countries.

The 2007–08 financial year saw increasing volatility and turbulence in global share markets and dislocation in global credit markets triggered by problems in the US sub-prime mortgage market. The global financial crisis has been extraordinary in terms of its reach and its persistence. It has involved deteriorating credit risk and evaporating liquidity and has exposed problems, especially with many complex structured products. As the Bank for International Settlements has said:*

... the chain of events started with what appeared at first to be a relatively contained problem in the US sub-prime mortgage sector, but quickly spread to other markets. In an environment of rather accommodative financial conditions and elevated risk appetite, use of credit derivatives and securitisation technology had aided the build-up of substantial leverage in the financial system as a whole. When this leverage started to be unwound in the face of sub-prime losses, price deterioration led to margin calls and further deleveraging.

As a result, increasing numbers of enterprises in Australia came under stress and confronted failure. This was particularly the case for entities with complex structures and high levels of gearing.

Activity in local debt markets contracted and, in particular, issuance of residential mortgage-backed securities fell sharply while interest rate spreads widened. Aggregate credit growth slowed and lending by wholesale lenders fell back sharply while the five largest banks gained market share.

The 2007–08 financial year saw increasing volatility and turbulence in global share markets and dislocation in global credit markets triggered by problems in the US sub-prime mortgage market.

The downturn also exposed the weakness of companies, stockbrokers and margin lenders whose business models proved to be dependent on ever-rising asset prices and/or extensive use of leverage.

In 2007–08, the market's focus was on companies with complex structures and leveraged business models. From their peak to their financial-year low, Centro Properties Group had lost \$8.3 billion in market capitalisation, Allico Finance Group \$4.5 billion and ABC Learning Centres \$2.9 billion. Opes Prime Stockbroking and Lift Capital Partners went into administration.

* Bank for International Settlements, 78th Annual Report (released 30 June 2008), p 92.

Further, Australia's banks, which have depended for part of their funding on borrowings abroad, were subject to concerns about the availability of liquid funds and increases in funding costs. These concerns were passed through to borrowers in the form of higher interest rates.

Collectively, these were shocks to the system that resulted in significant losses for many investors – from retail investors to institutions – and raised legitimate questions about the adequacy of the regulatory regime. As the body with primary responsibility for the financial markets and investments in Australia, ASIC – like its peer regulators in other countries – has been reviewing the lessons from the downturn and its impact and whether there is a need to change its regulatory approach in response to these events.

Despite these difficulties, it has been encouraging that investors in Australia continued transacting with confidence during the year. Average daily turnover on the ASX's cash market was a record \$6.4 billion, up 22 per cent on the previous financial year, and the total value traded was \$1.6 trillion, also up 22 per cent. KPMG has reported that overall equity raised in the year to June 2008 was \$54.2 billion, down from the \$65.6 billion raised in 2006–07 and the second highest figure over the past decade.*

ASIC made the global market turbulence a priority and responded in a number of ways. Together with the ASX, we reminded the market of a number of important obligations. We gave guidance on the disclosure of material information relating to the financing arrangements of listed entities and the margin loans held by company directors; we provided guidance on the disclosure of substantial interests held by stock lending participants; and we issued a warning to market users against starting false or misleading rumours and the consequences of such activities.

As a result of these activities, we saw increased disclosure in the area of margin lending and a better understanding of the substantial shareholder notice provisions.

Average daily turnover on the ASX's cash market was a record \$6.4 billion, up 22 per cent on the previous financial year, and the total value traded was \$1.6 trillion, also up 22 per cent.

We also commenced a series of inquiries and investigations into insider trading and market manipulation (see page 20).

The existing regulatory system is well equipped to address most forms of market misbehaviour and abuse. However, the crisis has revealed the need for further work in areas such as margin lending, stock lending, short selling and contracts for difference (CFDs). We have worked with Treasury on covered short selling. In the coming year, we will continue our focus on these issues.

* KPMG press release, 14 July 2008 (quoting KPMG's *Survey of the Australian capital markets 2007–08*).

MAJOR ENFORCEMENT ACTIONS

This year, in collaboration with the CDDP, we completed 52 criminal proceedings, with 49 criminals convicted, including 23 jailed. We completed 44 civil proceedings and obtained over \$50 million in recoveries, costs, compensation and fines, with more than

\$96 million in assets frozen for investors and creditors.

More detail on ASIC's enforcement actions is provided in the review of ASIC's six priorities, see pages 16–31.

AWB	<p>ASIC is a member of the taskforce formed in 2007 to investigate allegations arising from the Cole Inquiry into the UN Oil-For-Food Programme. In December, we commenced civil proceedings alleging breaches of directors' and officers' duties against six defendants who are all former AWB officers, including the former managing director, chairman and chief financial officer.</p> <p>Our investigation into criminal breaches is continuing.</p>
HIH Insurance Limited	<p>Our investigation is complete. To date, nine people have been convicted and sentenced in relation to charges brought by ASIC. In November, Dominic Fodera, former Finance Director and Chief Financial Officer, received an additional jail term of three years and four months.</p> <p>Two defendants are currently awaiting trial on criminal charges:</p> <ul style="list-style-type: none"> • Geoffrey Cohen, former Chairman of HIH Insurance Limited, and • Daniel Wilkie, former officer of FAI General Insurance Company Limited.
Westpoint Group	<p>Liquidators made distributions in excess of \$30 million to investors from assets secured by ASIC action. This is against total losses in excess of \$350 million.</p> <p>We commenced proceedings against five financial services licensees as well as a trustee company. We are seeking compensation in the vicinity of \$80 million.</p> <p>We commenced proceedings on behalf of particular mezzanine companies in the Westpoint Group against former officers, directors and associated entities for up to \$245 million.</p> <p>A former promoter of Westpoint products, Neil Austin Burnard, was convicted on nine criminal charges.</p> <p>Fourteen licensed advisers and 2 unlicensed advisers who advised on Westpoint products were banned (1 for life), and licensing action is being taken against a further 17 advisers.</p> <p>We worked with the WA State Police, leading to the charging and guilty plea of one Perth adviser, Annamieke De Boer.</p> <p>We commenced criminal proceedings against former advisor Keith Rowntree for providing unlicensed financial advice. We delivered criminal briefs to the CDDP in relation to eight unlicensed financial advisers and three former directors and officers.</p>
James Hardie	<p>The civil penalty proceedings commenced last year are continuing, seeking declarations of breaches against James Hardie Industries Limited (now known as ABN 60 Pty Ltd), declarations of breaches and fines against James Hardie Industries NV, and declarations of breaches, fines and disqualification against a number of former and current directors and former executives.</p>

Project Wickenby

ASIC is a member of the Government's Project Wickenby Taskforce.

To enforce the importance of market disclosure and transparency, ASIC undertook successful court action that led to the vesting and sale of over 2 million shares in listed company Novogen Limited after the beneficial owners of the shares failed to identify themselves. Approximately \$4 million was recovered and is now held in trust.

From information provided by the Taskforce, ASIC successfully prosecuted Stephen Moignard on 10 counts of managing corporations while disqualified because of insolvency.

One.Tel

We finalised proceedings and are awaiting judgment in civil penalty proceedings against two former executive directors of One.Tel.

Previously, we settled proceedings against 2 other defendants in 2003 and 2004, obtaining judgments for compensation and banning periods of 10 and 4 years.

Opes Prime Stockbroking Limited

There is an ongoing investigation into issues arising from the collapse of Opes Prime.

We obtained orders preventing certain directors from leaving the country.

Fincorp Group

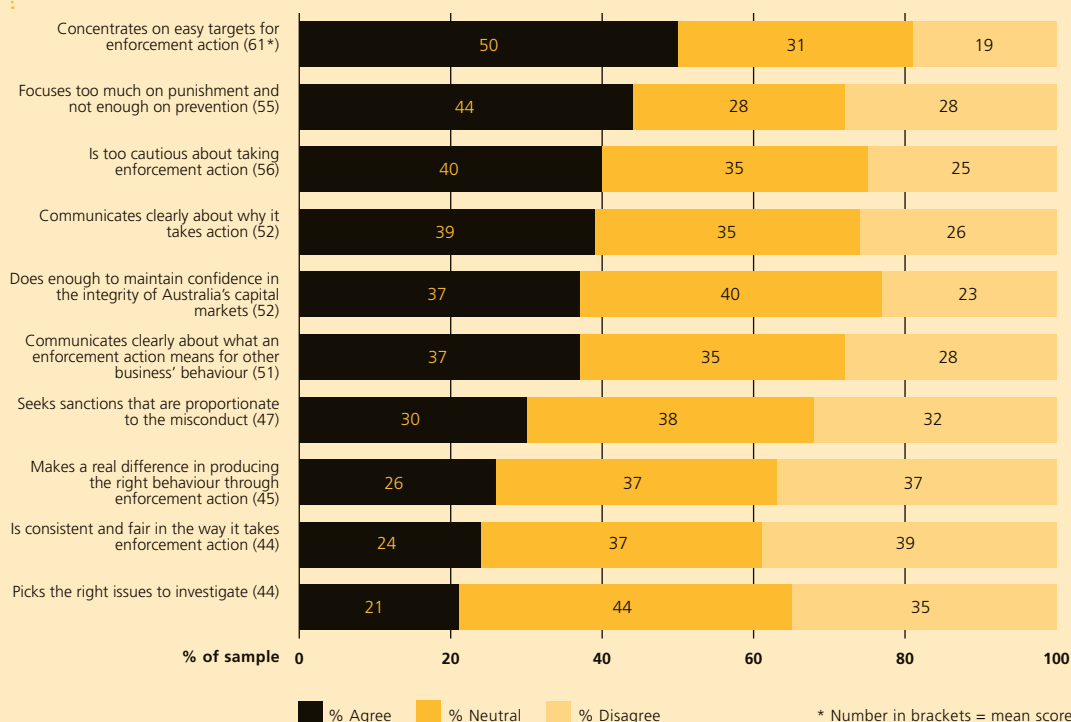
There is an ongoing investigation into the collapse of Fincorp.

Australian Capital Reserve

There is an ongoing investigation into the collapse of ACR.

How ASIC deals with people who don't comply with the law

Source: Allen Consulting Group survey of ASIC stakeholders



1

CONSUMERS AND RETAIL INVESTORS

ASIC actively promoted the interests of consumers and retail investors through a broad range of education, policy, enforcement and research initiatives. We supported financial literacy in the community, including schools; monitored advertising; provided investors with tools to vet financial advisers; and took action against illegal investment schemes.

Taskforce

The Retail Investors Taskforce was formed in November 2007 to identify ways to assist retail investors. Headed by ASIC Deputy Chairman Jeremy Cooper, it has been working to ensure retail investors become better informed and better equipped to manage their investments and protect their wealth. The Taskforce has focused on the quality of advice and information investors receive, better disclosure, advertising and the early detection and elimination of illegal schemes. In April 2008, ASIC released a Roy Morgan research report on the profile of retail investors, their financial literacy and investment decision-making processes. Over 1200 investors were surveyed.

The Taskforce also completed a marketplace review that, together with the Roy Morgan report, will form the blueprint for ASIC's work with consumers and retail investors for the next three to five years. Its work was incorporated into ASIC's Strategic Review.

In addition, Taskforce staff contributed to the Government's Financial Services Working Group, which is looking at a range of important issues, including how to reduce the length of disclosure documents and make them easier to read and understand.

Unlisted, unrated debentures

It is estimated that unlisted, unrated debentures accounted for approximately \$8 billion of the \$34 billion in debentures held by retail investors and self-managed superannuation funds in mid-2007. Following the collapse of companies

such as Westpoint, Fincorp and ACR, there was considerable concern about unlisted, unrated debentures.

ASIC responded with a three-point plan involving industry profiling, guidance and standard setting. We:

- set new standards for prospectus disclosures of these products, focused on giving investors information they need to understand what they are investing in and the risks involved
- set new standards for advertising of these debentures across all media, to stamp out advertising that misleads investors about what they might be buying, and
- engaged with all issuers of debentures to help them comply with the new standards.

We also commissioned consumer research to help us better understand what attracts investors to these products and be better able to communicate with them about these kinds of investments. Based on this research, we published a new guide for investors to help them make informed decisions.

By March 2008, 100 per cent of the issuers of unlisted, unrated debentures had reported against ASIC's benchmarks and there was a marked improvement in the quality of disclosure to retail investors and their financial advisers. We also commenced or completed specific investigation and enforcement activities relating to Westpoint, Fincorp and ACR (see pages 14–15).

Financial services

To ensure that consumers using financial products and getting financial advice are treated honestly and fairly, we acted against wrongdoing. We banned 49 individuals or companies from the financial services industry, 12 permanently and 18 for at least 5 years. As a result of ASIC action, 23 individuals were convicted of fraud, theft or misleading conduct in relation to financial services, of whom 14 were jailed for terms of up to 8 years.

Corporations and insolvency

In consultation with the CDPP, we commenced criminal proceedings against 13 company directors and officers for a range of offences including dishonesty, making false representations, fraud and managing companies while disqualified. We obtained court orders banning 7 directors for periods of 3–16 years, and banned another 7 directors through administrative proceedings.

We also obtained the extradition of four defendants to face charges in relation to their conduct as company directors and officers.

Illegal fundraising

To improve the early detection of illegal fundraising, we commenced 50 surveillance exercises after receiving public complaints. These surveillances resulted in 13 investigations and 2 schemes being voluntarily shut down.

We obtained interim, injunctive orders relating to over \$5 million of funds invested in illegal investment schemes. We also obtained final orders against 80 schemes or companies, freezing assets and preserving \$50 million for investors in those schemes. These schemes involved around 2000 investors and \$174 million of funds originally invested.

Misconduct involving superannuation

We actively pursued individuals and corporations in relation to misconduct involving superannuation funds.

- We finalised the recovery of \$10 million under section 50 of the ASIC Act for approximately 26,000 superannuants who lost approximately \$32 million plus interest in the Employees Productivity Award Superannuation (EPAS) Fund.
- We have investigated 9 schemes involving over 800 superannuants and \$28 million in superannuation funds and have taken court action against 6 schemes involving the illegal early release of superannuation funds to stop further breach and restrain money held in bank accounts.

- We obtained court orders winding up two illegal schemes that were promoted to self-managed superannuation funds. More than 350 investors were involved. ASIC secured assets of \$22.2 million for investors from Australia and overseas that will be distributed back to investors through the court-ordered wind-up of the schemes.
- We obtained orders permanently restraining NSW accountant Ian Robert Hodgson from providing financial services. He advised clients to create self-managed superannuation funds to invest approximately \$10.7 million in the illegal property schemes he was operating. The orders facilitate the sale and realisation of these properties and the return of the proceeds of sale to investors.

Retail banking

Mortgage fees: ASIC reviewed home loan entry and exit fees. The review was conducted at the request of the Government and our report was released by the Treasurer, the Hon Wayne Swan MP, on 5 April 2008. The report outlined the levels and nature of the fees.

Default fees: While ASIC has no power to prescribe or limit retail banking fees, we used our limited jurisdiction to increase transparency and promote market competition. This, along with action by the consumer sector, has resulted in retail banks launching initiatives to better disclose fees and advise customers how to avoid them. In some cases, it has also led to a reduction in the fees charged.

Reverse equity products: ASIC released *All we have is this house*, a report about the experiences of homeowners with reverse mortgages. This found that while borrowers were generally satisfied with these products, there was scope for better investor education. We used these findings to shape our education activities. We also continued to work with the industry throughout the year, promoting best practice in product design and sales. This led to changes in the industry code of practice, improving the protection offered by 'no negative equity' guarantees.

Credit and lending practices

To protect consumers and investors and to deter wrongdoing:

- We acted on the insurance sales and debt collection practices of companies in the GE Money Group (see case study below).
- Mortgage brokers Dominic Cincotta and Ronald Wynhoven were convicted of obtaining financial advantages by deception. Mr Cincotta was sentenced to five years jail and Mr Wynhoven was sentenced to three years jail and ordered to pay \$200,000 compensation to victims.
- We obtained compensation orders against mortgage brokers Kelvin Skeers and Tonadale Pty Ltd as a result of unconscionable conduct and misleading and deceptive statements.
- Tunde Doja was sentenced to three years, eight months jail and Tony Zareei was sentenced to community service after being found guilty of fraudulently obtaining a financial advantage for investors by arranging 100 per cent investment loans through a credit provider. The investors were compensated by the credit provider.
- We charged the operators of the Money for Living reverse mortgage scheme with obtaining financial advantage by deception. Gary O'Neill has pleaded guilty and Stephen O'Neill is awaiting trial.

Refinancing report

Acting on concern about homeowners who might make inappropriate refinancing decisions when trying to relieve mortgage stress, we released the *Protecting wealth in the family home* report. Published in March 2008, it shed light on particularly damaging refinancing strategies being promoted by some brokers and the vulnerability of borrowers under stress to exaggerated claims about solutions. We provided educational material to help consumers protect their interests and took enforcement action against a number of entities involved.

Assisted with dispute resolution

In May 2008, ASIC approved the new Financial Ombudsman Service as an external dispute resolution scheme for the purposes of the Corporations Act. The new scheme, which will be operational from 1 July 2008, represents the merger of the Financial Industry Complaints Service, the Banking and Financial Services Ombudsman and the Insurance Ombudsman Service. It will deal with 90 per cent of unresolved consumer disputes in the financial services industry. This development will promote better outcomes for retail investors, consumers and industry participants in terms of greater accessibility, consistency and efficiency, and through the potential for economies of scale.

Case study: ASIC pursues GE Money over poor practices

Poor debt collection practices by its consumer credit business, consumers complaining of harassment, and problems with the advice provided by parts of its insurance advice and sales business led to action against the GE Money group.

ASIC imposed new, more stringent conditions on the financial services licences of two companies in the group, including that they cannot provide personal advice and that all affected customers must be compensated. GE Money has also given a court-enforceable undertaking to implement improvements in its debt collection practices recommended by an independent expert, and to pay compensation to affected customers. ASIC will continue to monitor GE Money closely and will take further action if necessary.

FIDO

ASIC's dedicated website for consumers and investors, FIDO (www.fido.gov.au), continued to be a popular and well regarded source of independent information about finance and investment matters for consumers and investors. The site received almost 1.5 million visits during the year, up from approximately 1 million in 2006–07. New content added this year included information about investing in unlisted, unrated debentures; a checklist for consumers looking to switch home loans; and a dedicated section, including audio segments, for Indigenous consumers. FIDO is continuously promoted via a range of media, editorial and other communication channels.

Financial literacy

ASIC continued to work on promoting and supporting the inclusion of financial literacy education in schools. Having access to quality, independent resources has been identified as a key need for teachers and students. Working with the Curriculum Corporation, we have developed a set of curriculum-linked financial literacy resources about superannuation and insurance, which will be available on FIDO and other websites regularly used by teachers.

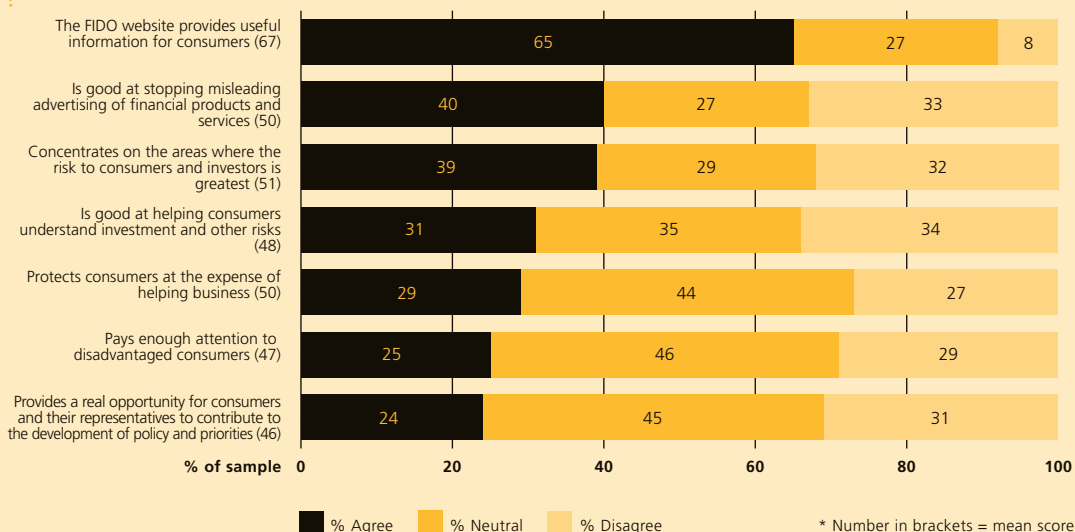
These resources will fill a gap for teachers and will help students make their first decisions in these areas.

From July 2008, we will take over responsibility for the Financial Literacy Foundation and bring together the work of ASIC and the Foundation to embed financial literacy in our school system, promote improved financial literacy and, importantly, financial decision making throughout the Australian population. As in the year under review, we will have a particular focus on the needs of baby boomers and retirees.

ASIC continued to work on promoting and supporting the inclusion of financial literacy education in schools.

ASIC's approach to helping consumers and investors

Source: Allen Consulting Group survey of ASIC stakeholders



2

CAPITAL MARKET INTEGRITY

ASIC substantially increased its efforts to identify and systematically pursue problem behaviour to improve confidence in the integrity of the capital markets. This involved detecting and acting against insider trading, market manipulation, failure to provide continuous disclosure and other market abuses.

Capital Markets Taskforce

The Capital Markets Taskforce, led by Commissioner Belinda Gibson, was established during the year to oversee current ASIC work on insider trading and continuous disclosure, and to look more broadly at future developments in capital markets and how ASIC can contribute to market integrity.

We increased resources to improve detection and action against market abuse, we streamlined internal processes, and we incorporated the Taskforce's review of ASIC's role in the capital markets into ASIC's Strategic Review, see page 30.

Market integrity

We provided timely guidance on maintaining market integrity to listed entities, stock lenders, market participants and investors affected by the market turbulence. This included publishing, in conjunction with the ASX, a reminder of directors' obligations to disclose market-sensitive information about their margin loans and financing arrangements. Our guidance reinforced ASIC's commitment to enforcing market laws.

Market surveillance

We undertook 225 market surveillance exercises following direct complaints to ASIC from shareholders, market participants, company directors and the general public. Direct complaints about market misconduct increased by over 33 per cent; the majority related to continuous disclosure (40 per cent) and insider trading (21 per cent). We completed 80 surveillance exercises and our inquiries into 145 matters are continuing. As part of this

exercise, we issued 81 'please explain' letters or notices to ASX-listed companies and individuals, querying levels of market disclosure or seeking further information in relation to alleged contraventions. These surveillances led to seven investigations, and information was forwarded to international market regulators in another two cases.

We acted on 88 suspicious transactions and possible contraventions that the ASX referred to us. At year's end, we were assessing 16 matters; investigating 30 matters for possible civil, criminal or administrative action; considering 20 matters for other remedial action (such as licensing action); and had closed 22 matters that did not warrant further inquiry.

In addition, we referred seven insider trading matters and two market manipulation matters to the CDPP, and there were three false and misleading statement matters and two continuous disclosure matters before the courts.

During the year, our enforcement action resulted in one conviction for insider trading, two convictions and one banning for market manipulation, the payment of four infringement notices for alleged contravention of the continuous disclosure provisions, and three convictions for making false and misleading statements.

Competition for market services

We provided advice to the Minister on competition for trading in ASX-listed securities. Our consultation process and procuring of independent expert advice ensured that a broad range of interests and points of view were taken into account in our advice to the Minister.

Financial reporting

We reviewed the accounts of 325 entities, including 28 companies listed on the ASX 200, and found that, overall, the level of compliance with accounting standards was positive. In 15 cases, we agreed with the entity that they would improve reporting in future accounts, and

we are continuing to work on 10 matters. Common areas for improvement were business combinations, impairment and intangible assets.

Auditors

Our focus on the performance of auditors included inspecting 13 audit firms. Following each inspection, we reported to the firm involved, and all firms have committed in writing to consider and act on the matters brought to their attention to further build audit quality and independence. We also reviewed the conduct of 24 individual auditors.

We completed our first four joint inspections of audit firms with the US Public Company Accounting Oversight Board (PCAOB). We entered into an arrangement with the PCAOB in July 2007 to assist it to ascertain compliance by Australian auditors with the US *Sarbanes Oxley Act 2002*, thereby reducing regulatory duplication for the audit profession.

IFIAR

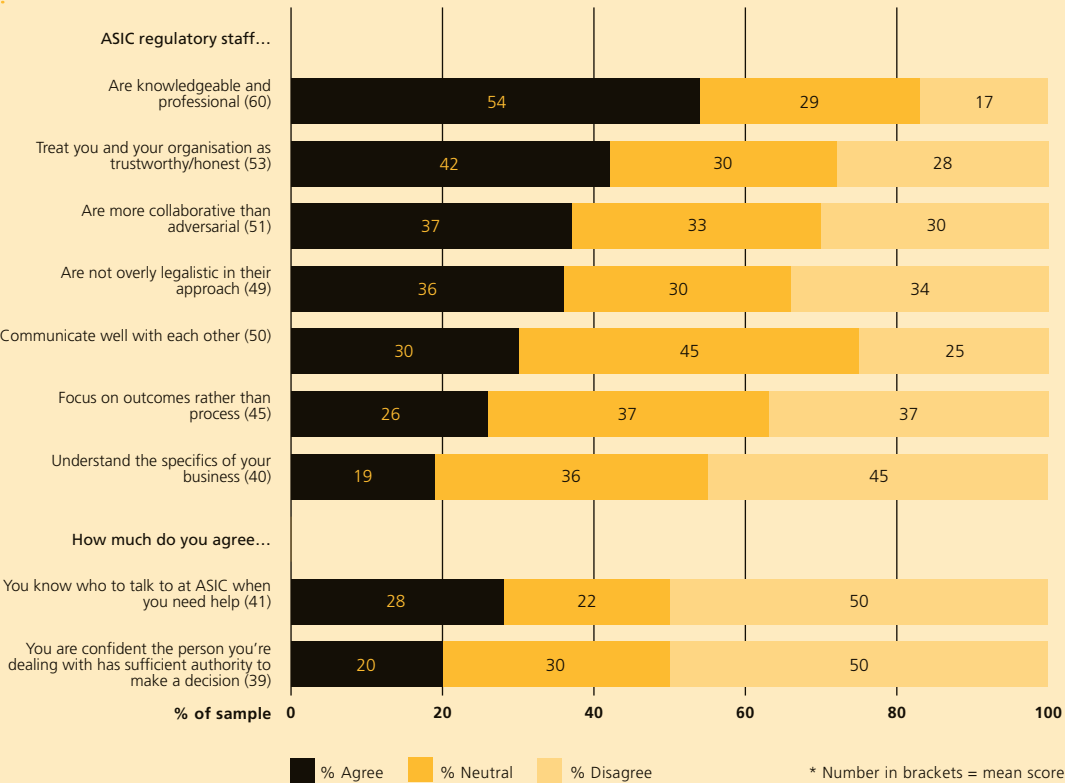
ASIC is a founding member of the International Forum of Independent Audit Regulators (IFIAR), a group of 24 audit regulators from economies generating over 70 per cent of the world's GDP. Jeffrey Lucy, ASIC's former Chairman, completed his term as inaugural Chairman of IFIAR in September 2007. Currently, ASIC is involved with IFIAR in a number of focus areas, including analysing the drivers of audit quality.

Liquidators

On 1 January 2008, major insolvency reforms came into effect. We have worked closely with the profession to provide clear guidance on the changes. The amendments strengthen ASIC's powers to monitor liquidators and help improve the outcomes for creditors.

Dealing with ASIC regulatory staff

Source: Allen Consulting Group survey of ASIC stakeholders



We inspected 6 insolvency firms and contacted 18 others about conduct issues, resulting in improved procedures and conduct. The registration of one liquidator, Richard Albarran, was suspended and we obtained a contempt order against him. He was fined \$20,000 and ordered to pay ASIC's and the CALDB's costs on an indemnity basis. Following a successful court application, Stuart Ariff was removed, by consent, as a liquidator of two companies.

We visited approximately 250 companies identified as being at financial risk to improve awareness by company directors of their duties and obligations to prevent insolvent trading. Many of these companies subsequently sought professional advice to help them avoid insolvency and insolvent trading.

Statutory reports

Receivers, managing controllers, administrators and liquidators (external administrators) are required to report to ASIC if it appears to them that a relevant person may have engaged in misconduct or, in the case of liquidators, if the return to unsecured creditors may be less than 50 cents in the dollar. We have changed our reporting approach to provide more detailed information about the types of statutory reports we receive and the action we take on them. To aid comparison, we have provided a three-year analysis in Table 2.

Table 2: Statutory reports received from external administrators

	07–08	06–07	05–06
Total reports received	8,579*	8,335*	7,292*
Reports assessed alleging misconduct or suspicious activity	6,886	6,862	5,796
Initial reports[†]			
Reports assessed alleging suspicious activity	5,835	5,717	4,763
Supplementary report requested	17%	17%	17%
Analysed, assessed and recorded	83%	83%	83%
Supplementary reports[‡]			
Supplementary reports assessed alleging misconduct	1,051	1,145	1,033
Referred for compliance, investigation or surveillance**	10%	16%	6%
Referred to assist existing investigation or surveillance	7% [#]	Not captured	Not captured
Analysed, assessed and recorded	79%	81%	92%
Identified no offences	4%	3%	2%

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

† Initial reports are electronic tick-a-box reports lodged under Schedule B of RG16, which provide ASIC with key statistical particulars about the corporate insolvency, and indicate whether, on early investigation and inquiry, misconduct is apparent and whether the external administrator recommends further investigation. Initial reports are required to be lodged by external administrators as soon as practicable, within two to six months of the date of appointment, depending on the nature of the appointment. Generally, ASIC will determine whether to request a supplementary report on the basis of an initial report.

‡ Supplementary reports are typically detailed free-format reports, which detail the results of the external administrator's inquiries and the evidence to support the alleged offences. Generally, ASIC can determine whether to commence a formal investigation on the basis of a supplementary report.

** In previous Annual Reports, this figure was calculated by reference to total reports received. This figure is now calculated by reference to total supplementary reports.

In previous Annual Reports, these matters were included in 'analysed, assessed and recorded'.

The main issues raised in supplementary reports were suspected fraud or negligence by company officers (33 per cent), suspected insolvent trading (30 per cent) and failure to lodge documents or reports (13 per cent). Supplementary reports prepared by liquidators also assist ASIC to identify and ban company directors involved in two or more failed companies and to take action against phoenix operators.

Assetless Administration Fund

ASIC sought to increase participation in the Assetless Administration Fund. We revised the Fund’s guidelines, visited more than 100 insolvency firms and conducted training nationally to over 420 liquidators and their staff to explain our requirements. The Fund was established by the Government and is administered by ASIC to finance preliminary investigations and reports by liquidators into the failure of companies with few or no assets.

During the year, we approved discretionary grants for preliminary investigations and reports into 126 companies, paid over \$1.4 million to liquidators for reports received, and committed \$0.8 million for reports to be received in 2008–09. Some 36 of the 66 directors who

We revised the Fund’s guidelines, visited more than 100 insolvency firms and conducted training nationally to over 420 liquidators and their staff.

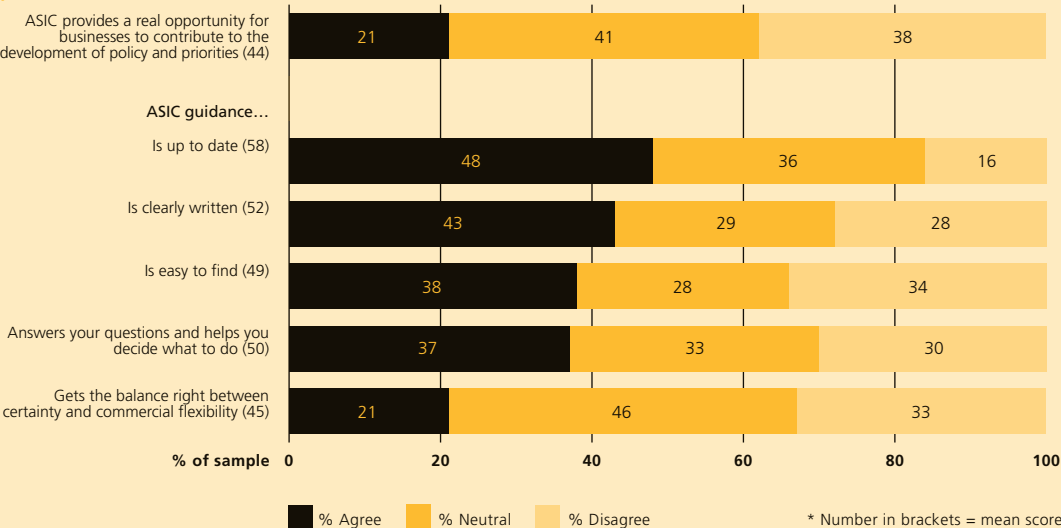
were disqualified or banned from managing companies were the subjects of reports funded by the Assetless Administration Fund.

Expert reports

In October 2007, ASIC issued two updated regulatory guides on expert reports. Expert reports are an important part of the information provided to investors during transactions such as takeovers and schemes of arrangement. The guides discuss the independence of experts and the content of expert reports, with the aim of improving their quality, succinctness and integrity.

Helping business understand what the rules are (policy and guidance)

Source: Allen Consulting Group survey of ASIC stakeholders



3 FACILITATING CAPITAL FLOWS

An important priority for ASIC is to reduce impediments to capital flows into and out of Australia (while protecting Australian investors). The goal is to increase access by Australians to international capital and international investment opportunities, thereby boosting liquidity in Australian markets and generating more competition, diversification and better overall returns for Australian investors. In this area, we worked closely with Treasury and the Government.

Research

ASIC completed economic, technical and survey reports to better understand the factors that facilitate and impede capital flows into and out of Australia. Australians, both individually and through their fund managers, are investing more overseas. Valued at more than \$1 trillion, Australia's funds management sector is the world's fourth largest and a significant part of global markets. However, Australia is a substantial net capital importer and draws extensively on foreign savings to fund economic growth.

Impediments to flows of capital into and out of Australia raise the cost of capital to Australian businesses and reduce the return on investment to Australian savers. To the extent that barriers to capital flows limit the growth and vibrancy of the pool of capital seeking a home, liquidity in financial markets is reduced and the potential benefits of increased international integration are lost. We have been working to reduce these barriers.

Mutual recognition arrangements

With Treasury, we made significant progress towards mutual recognition of regulatory systems over the last 12 months, with a number of initiatives reaching fruition and others nearing the final stages of negotiation.

ASIC and the US Securities and Exchange Commission (SEC) are working towards an agreement that will allow mutual recognition

of brokers and dealers across the Australian and US securities markets, and recognition of each jurisdiction's regulation of markets. This will be the first step in increasing investment flows and business opportunities between Australian and US securities markets.

The New Zealand Securities Commission, the New Zealand Companies Office and ASIC have also worked together to implement a number of trans-Tasman initiatives. These include the trans-Tasman MRSO regime, which will allow a single disclosure document (either a New Zealand prospectus or an Australian prospectus or product disclosure statement) to be used in both Australia and New Zealand.

In June, letters were exchanged between ASIC and the China Banking Regulatory Commission (CBRC) to recognise Australia as an approved destination under the Chinese Qualified Domestic Institutional Investor (QDII) Scheme administered by the CBRC. This agreement will lead to Australia being a more attractive destination for China's capital investment, having the potential to improve liquidity in ASX markets. It also provides benefits to Australia's funds management industry as qualified Chinese commercial banks will now be able to engage the services of Australian investment managers to assist with QDII investments.

In addition, ASIC's current Memorandum of Understanding with the China Securities Regulatory Commission (CSRC) has been acknowledged as sufficient for the purpose of Australia being recognised by the CSRC as an approved destination for investments administered by the CSRC.

Our negotiations with the Hong Kong Securities and Futures Commission culminated in ASIC being the first foreign securities commission to receive a level of mutual recognition that facilitates the sale of retail funds to investors in each other's markets. This agreement, entered into on 7 July 2008, gives more choices to the Australian and Hong Kong retail public and opportunities for the Australian and Hong Kong funds management industry.

We have also been discussing possible reciprocal arrangements with the Monetary Authority of Singapore (MAS). In November 2007, we provided certain relief to allow Singaporean managed investment schemes, authorised by the MAS, to enter the Australian market. This broadened the range of investments available to Australian investors.

Review of recognition arrangements

ASIC and Treasury have issued a joint consultation paper, *Cross-border recognition: Facilitating access to overseas markets and financial services*, to investigate what more can be done to facilitate cross-border capital flows for the benefit of Australian investors while maintaining effective cross-border regulatory arrangements to protect investors. The consultation paper contains proposals to refine ASIC's current framework of unilateral recognition while developing a mutual recognition framework for application in agreements between Australia and overseas jurisdictions.

Future work programs and priorities

This year, our work to support the development of international global financial markets and services will concentrate on maximising cross-border recognition opportunities and modernising regulatory cooperation arrangements.

Further cooperation

ASIC continued to work with the Indonesian capital markets supervisory agency, Bapepam-LK, to strengthen the supervision of fund managers in that country. A senior ASIC staff member has been deployed to Jakarta for up to two years to work directly with the Indonesian regulator.

ASIC remains committed to the International Organization of Securities Commissions (IOSCO), through its work on the Executive and Technical Committees in addition to the Asia Pacific Regional Committee. ASIC was re-elected this year to the IOSCO Executive Committee together with countries such as

China, Germany, Japan, the United Kingdom and the US. We also seconded a staff member to the European Commission.

Business education

To make it easier for overseas investors and traders to participate in Australian equity markets, ASIC is preparing a range of educational and guidance material for companies and financial service providers. We are also developing consultation papers on cross-border capital flows and the recognition of foreign offer documents.

Case study: Cold calling

We detected and stopped a commodity options trading scam, known as Capital Marketing Services, that was targeting Australian consumers through the internet. The perpetrators of the scam, who were not based in Australia, used fictitious trade exchanges, stockbroking firms and clearing houses to deceive over 900 Australians into investing in excess of \$24 million over an 18-month period.

It is a challenge for ASIC to protect investors where the perpetrators are based overseas but, since the detection of this scam in 2006, ASIC has collaborated with and provided key information to regulators and police agencies in the US, Hong Kong, Singapore and Malaysia. Regulatory action has resulted in a number of overseas arrests and proceedings in those countries and action to freeze foreign bank accounts holding in excess of \$800,000. ASIC has initiated its own actions to restrain a further \$4 million in Australia. Recently, one of the perpetrators was sentenced to a term of imprisonment of two years in Hong Kong, and the outcomes of criminal and civil actions in Malaysia and Singapore are awaited. In the US, restitution totalling \$13 million was ordered against a number of companies related to the scam.

4

HELPING SMALL AND MEDIUM BUSINESS

ASIC plays a central role in the Australian economy as the registrar for companies and through its management of information lodgment and access services, collection of fees and answering of public inquiries. We are using technology and improving our systems to reduce red tape and increase efficiency for Australia's 1.6 million companies.

Improved service delivery

On 2 July 2007, we introduced an electronic registration and payment service for the approximately 130,000 company charge documents (Form 309) and 70,000 related documents that ASIC receives and processes each year. In the coming year, we will be increasing the number of online services provided.

We set and met a higher standard of service delivery in our Client Contact Centre. We extended our toll-free 1300 300 630 contact number to all callers. We now answer 80 per cent of calls within 60 seconds and more than 95 per cent of all inquiries are answered on the spot. We also answered 90 per cent of emails within two business days, up from 80 per cent the previous year, and businesses can now pay their annual review fee by credit card.

In addition, we have a dedicated team participating in the whole-of-government Standard Business Reporting (SBR) project. This project is working to reduce the costs of business reporting to government by harmonising procedures and reporting requirements across Commonwealth and state agencies.

Streamlining and reducing duplication

Following ASIC submissions, law reform occurred that streamlined public companies' reporting obligations to reduce effort, cost and duplication. The obligation for listed companies to notify top-20 shareholders in their annual review process was removed, and the need for a company to notify ASIC that a person had

ceased to act as an officeholder where the individual had already done so was abolished.

In addition, the Working Group formed by ASIC and APRA continued to review areas of regulatory overlap or duplication between the two agencies and how these might be resolved.

In March 2008, APRA and ASIC released a new online breach reporting system for dual-regulated institutions. The online system simplifies the process through which regulated institutions report breaches to ASIC and APRA.

ASIC also released a licensing guide clarifying how it will recognise standards set by APRA in assessing whether a person has appropriate knowledge for their role in a financial services business.

**We now answer 80 per
cent of calls within
60 seconds and more than
95 per cent of all inquiries
are answered on the spot.**

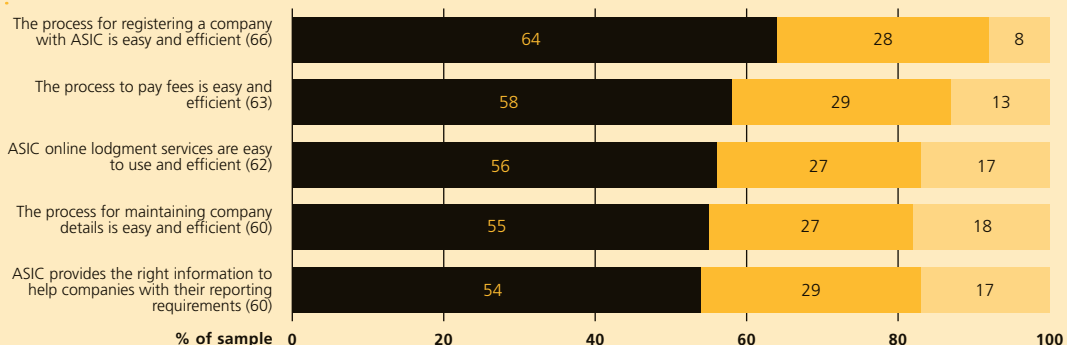
Phoenix trading

Phoenix trading occurs when the assets of a company are moved to another company, usually with a similar name and the same directors, without appropriate consideration or payment for the transfer as a way of avoiding debts or other liabilities.

In May 2008, ASIC commenced civil proceedings against solicitor Timothy Donald Somerville and eight company directors over their alleged involvement in phoenix-style transactions. We also take banning action against people who have been directors of two or more failed companies, see page 61.

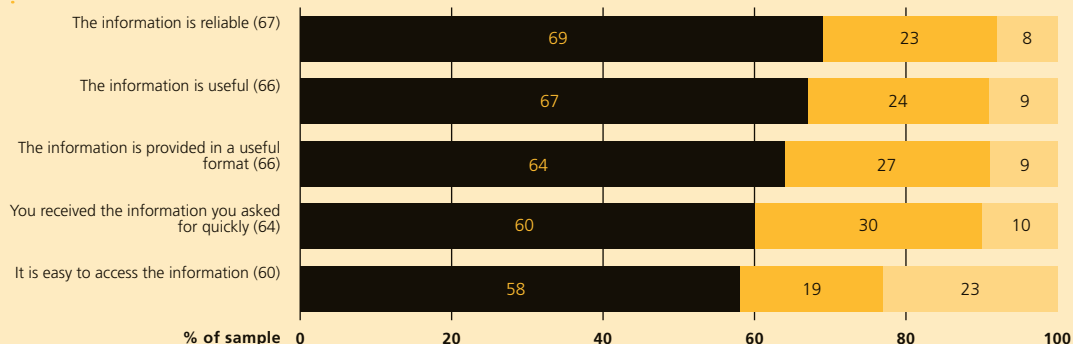
Lodging company documents with ASIC

Source: Allen Consulting Group survey of ASIC stakeholders



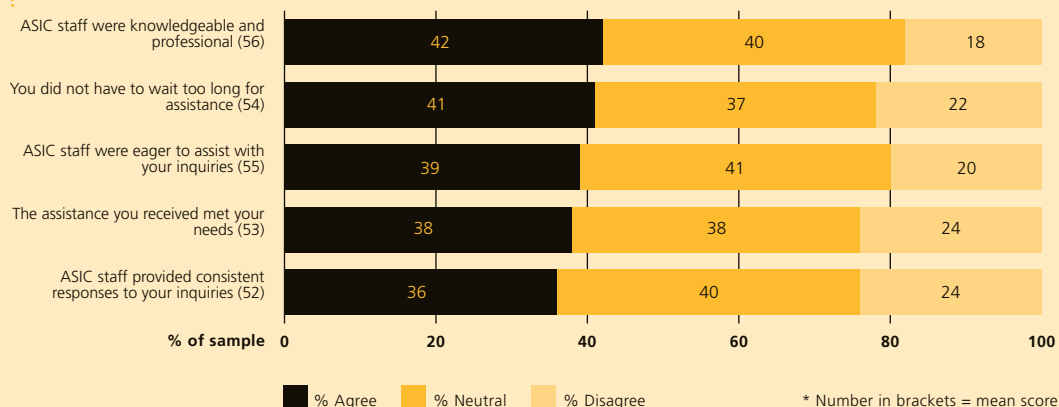
Searching information in ASIC's databases

Source: Allen Consulting Group survey of ASIC stakeholders



Calling the ASIC Client Contact Centre (including the ASIC Infoline)

Source: Allen Consulting Group survey of ASIC stakeholders



■ % Agree ■ % Neutral ■ % Disagree

* Number in brackets = mean score

5 LIFTING OPERATIONAL EFFECTIVENESS

ASIC is focused on ensuring the efficient and cost-effective administration of the regulatory framework for which we are responsible. This includes improving our internal operations, delivering the benefits of regulation for business and other stakeholders with minimum cost, and meeting the Government's best-practice requirements.

Better Regulation program

ASIC's Better Regulation program was launched in 2006 and is aimed at making ASIC more transparent and accessible while reducing duplication and paperwork for the benefit of business, consumers and others. We have also completed research to better understand the impact of regulatory decisions and to develop responses to the rising cost of regulation.

With the support of the Finance Industry Council of Australia (FICA), ASIC commissioned Chant Link & Associates to conduct a survey of 64 financial-sector organisations on the cost impact of the regulatory framework that ASIC administers. The report was released on 26 March 2008, with key findings including:

- Respondents saw the benefits of regulatory oversight, both to their own organisation and to the market in general.
- The main concerns were poor implementation of some legislation, some regulation seen as unnecessary, and the volume of regulatory requirements seen as being difficult to manage.
- Compliance costs were generally accepted as inevitable and integral to maintaining consumer confidence.
- Most believed their compliance costs would be reduced overall if the quality of the regulatory process were to be improved.

ASIC will use the findings of the study to engage in further dialogue with industry on the impact of its regulation on business.

Simpler documents

On 5 July 2007, the number of types of ASIC regulatory documents produced to assist our stakeholders was reduced from 27 to 4: consultation papers, regulatory guides, reports and information sheets. We also launched a roadmap on our website to help users find these documents.

Best-practice compliance

The Office of Best Practice Regulation (OBPR) was set up by the Government in 2006 to help departments and agencies achieve best practice in preparing regulation and guidance. It assesses compliance with the Government's regulatory impact analysis requirements. During the year, ASIC was assessed by the OBPR as fully complying with its requirements.

Stakeholder consultation

ASIC has well established and extensive liaison arrangements at Commission, executive and operational levels to ensure open consultation and sound working relationships with industry and consumers. These involve regular liaison with key industry associations and senior business leaders, as well as periodic consultation with industry sectors.

Our Financial Services Consultative Committee is a key platform for ASIC liaison with that industry at an operational level, and our Business Advisory Committees provide strategic advice and feedback on the operations of our Public Information Program. Our Consumer Advisory Panel recommends research and alerts ASIC to emerging consumer issues, and our two Business Consultative Panels provide input to help us identify emerging risks and trends in the market. We will enhance this engagement with industry through the appointment of an External Advisory Panel (see page 30), which was an outcome of our Strategic Review.

ASIC’s Better Regulation program was launched in 2006 and is aimed at making ASIC more transparent and accessible while reducing duplication and paperwork.

Direct liaison

We are proactively increasing our direct liaison with the various industry sectors we regulate, through face-to-face meetings aimed at sharing information and expectations with industry participants. For example, we visited 224 financial services institutions and 300 small financial services licensees to better understand emerging trends, issues and risks relevant to them and encourage compliance. Within two months of the visits, we received 13 notifications of significant breaches, 41 applications for licence variations and 23 requests for advice or assistance from the 300 licensees visited.

Information technology upgrade – our STAR Program

In the 2007–08 Budget, the Government announced additional funding of \$116.7 million over the next four years for the upgrading of our information technology infrastructure. This upgrade will deliver improved access to ASIC’s public information and better support to our people through flexible systems that meet legislative and business requirements. We will introduce an easily searched integrated data warehouse in which information is consistently classified, consolidated and stored, and thus more easily mined. The introduction of enhanced technology foundations will also deliver better information protection, systems availability and reliability, and enable a timely disaster recovery capability.

As well as mapping what we need to do, this year we selected and customised an enterprise content management (ECM) system, began implementing a new disaster recovery capability for our document imaging facilities and upgraded our security systems. Next year,

we will roll out the ECM system, deliver portal technology so that our information is easier to access for our people and the community, and deliver a new data warehouse framework.

Public complaints

We encourage people to report suspected misconduct. During the year, ASIC dealt with 11,436 complaints, an increase of 7 per cent. We also seek to finalise people’s complaints in a timely manner. This year, 78 per cent of complaints were finalised in 28 days, which surpassed our target of 70 per cent.

	2007–08
Complaints finalised	11,436
Referred for compliance, investigation or surveillance	22%
Resolved, mainly through getting information people needed or by getting companies or company officers to comply	34%
Identified no offences or lacked jurisdiction to act	17%
Analysed, assessed and recorded for intelligence purposes	27%

In direct response to complaints, we sent 1135 warning letters to company directors seeking their compliance with their legal obligations. We also prosecuted 752 company officers for 1455 contraventions, obtaining good behaviour bonds, jail sentences, suspended sentences and fines and costs of \$1.07 million. These jail and suspended sentences are reported with other enforcement activity, see page 61. Overall, we achieved a compliance rate of 55 per cent.

Service Charter

The ASIC Service Charter sets out the most common interactions we have with stakeholders and how quickly stakeholders can expect us to respond to phone calls, complaints, requests or applications. Our performance for 2007–08 improved or remained steady in 15 of the 21 areas measured. See page 50 for full results.

6

STRATEGIC REVIEW

The outcomes of the Strategic Review will take ASIC closer to the market and consumers, make the organisation more accessible and flexible, and enable us to take emerging trends into account more quickly.

On 8 May 2008, ASIC announced the results of the Strategic Review of its operations that began shortly after the appointment of Mr Tony D'Aloisio as Chairman a year earlier. The results of the Review will be implemented by 1 September 2008. While ASIC will continue at approximately its current size – in terms of budget and people – it will be substantially reorganised.

Rationale for change

A key input to the Strategic Review was a comprehensive survey of stakeholders' current and future expectations and attitudes towards ASIC. This was conducted on ASIC's behalf in January and February 2008 by the Allen Consulting Group, which surveyed business and consumer stakeholders. ASIC staff completed the same survey for comparison purposes.

The survey found that business, in particular, wanted to see improvements in how ASIC administers the law and the way it deals with people and entities that breach the law. While positive about many of ASIC's administrative systems and information services, business said ASIC should prioritise the prosecution of market abuses, focus on cutting red tape and become more accessible. The survey 'boiled down' to a mark for ASIC of only 5.5 out of 10.

The firm of McKinsey & Co was engaged to assist with the Strategic Review process. They worked closely with ASIC's Strategic Review team to assess ASIC's external environment and internal capabilities; benchmark ASIC against peer organisations; develop propositions about strategy, capability building, leadership and structure; and design a strategic plan and an implementation plan.

New structure

ASIC is moving to a flatter, more flexible and more outwardly focused structure that embraces its responsibilities in both the real economy and the financial economy.

The changes are designed to ensure ASIC has a clear, forward-looking, market-based agenda and can appoint the leaders and build the internal capabilities it needs to ensure its agenda is realised.

The restructured ASIC will:

- better understand the markets it regulates
- be more forward-looking in examining issues and assessing systemic risks
- better articulate why it has chosen to intervene and the behavioural changes it wants the market to make
- have a clearer set of priorities, and
- have stronger leadership skills, and better skilled and credentialed staff.

Key changes

The changes ASIC is making in order to deliver these benefits are:

- additional investment in market research and analysis
- the appointment of an experienced External Advisory Panel, drawn from a variety of sectors of the economy, to advise ASIC's Commission on market developments and potential systemic issues
- abolition of the 4 current 'silos' directorates of ASIC and their replacement with 20 outwardly focused stakeholder and deterrence teams covering the financial economy
- additional resources directed to the supervision of brokers and intermediaries, to providers of exchange-traded products and to surveillance of exchange-traded markets, and
- a better balance between national and regional initiatives, including greater resources in the burgeoning Western Australian market.

While there will be a consolidation of senior roles, our total staff numbers will not decrease from 1669 full-time equivalent positions. ASIC will also increase its investment in training and development to build the credentials of existing staff and leaders. This includes the establishment of an ASIC Academy and the recruitment of senior people from industry.

ASIC will maintain its strong approach to enforcement. From September 2008, we will have eight enforcement or deterrence teams (instead of one large directorate). Each team will be given specific responsibilities, such as insider trading, major fraud or significant misconduct.

Regional Commissioners, who report directly to the Commission, will have new, additional responsibilities for managing support services and building teams. In particular, they will work with the Commission to ensure that ASIC maintains a proper balance between local and national initiatives.

Our priorities

ASIC’s priorities, referred to above, were considered during the Strategic Review and found to remain relevant and consistent with its future direction. ASIC will continue to focus on:

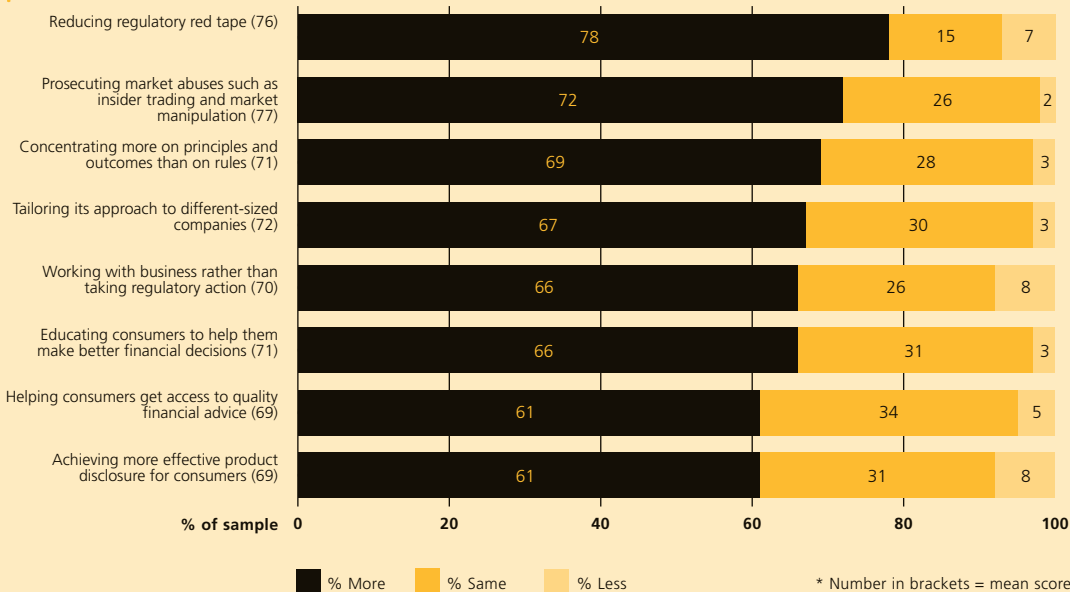
- promoting the interests of consumers and retail investors
- building confidence in and the integrity of Australia’s capital markets
- facilitating capital flows
- helping small and medium business, and
- lifting operational effectiveness.

These priorities will be enhanced by an additional focus on:

- international enforcement and internet fraud, as part of our facilitating capital flows priority, and
- managing the domestic and international implications of global financial turbulence.

What business would like ASIC to focus on – high-priority factors

Source: Allen Consulting Group survey of ASIC stakeholders



ASIC IN THE COMMUNITY

In July 2007, we launched our corporate social responsibility program, ASIC in the Community, which recognises that ASIC's people are all part of the broader communities in which we live. It is run by a representative staff committee drawn from all offices and provides staff with opportunities to contribute to the wider community.

ASIC in the Community has three elements: workplace giving, reducing ASIC's environmental footprint and staff volunteering.

Establishing the workplace giving program was the first priority. Staff were initially surveyed to determine the cause areas and organisations they wanted to support, and the program was formally launched in December 2007. Staff can nominate for automatic pay deductions to go directly to any of 20 registered charities.

By year's end, 5 per cent of ASIC staff were giving through the program and \$15,860 had been raised for the 20 charities.

One-off fundraising activities throughout the year, including Pink Ribbon and Cancer Council morning teas and 'Movember', raised \$27,120. A Tasmanian staff member also raised \$35,000, as the start of ASIC's Silver partnership with the National Breast Cancer Foundation. We are aiming to raise \$50,000 for a Victorian-based research project that is examining alternatives to chemotherapy for treating breast cancer.

In total, \$77,980 was contributed by ASIC staff to worthwhile causes in 2007–08.

Other activities in this inaugural year included organising Club Red, an ongoing blood donation program (staff have made at least 322 donations, which would help 966 people), an organ donation awareness campaign, involvement in Harmony Day and knitting numerous blankets to send overseas for those in need of some colourful warmth.

On the environmental front, we are building on work in previous years to reduce ASIC's carbon footprint and the waste we produce. Some 67 per cent of our fleet vehicles (up from 58 per cent last year) and 50 per cent of our senior executive service fleet (up from 43 per cent last year) have a 'Green Vehicle Guide' rating of 10.5 or better and we have introduced recycled paper in all our offices. Our energy consumption per person is 9739 MJ, under our target of 10,000 MJ, and we are proposing to separately meter our IT server rooms to enable us to better analyse our energy usage and further develop strategies for increasing energy efficiency. We are also raising awareness about how our people can reduce their impact on the environment.

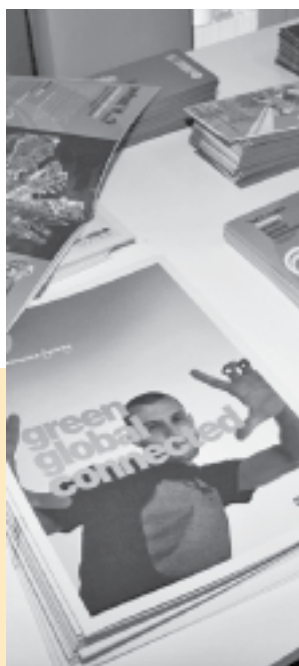
In total, \$77,980 was contributed by ASIC staff to worthwhile causes in 2007–08.

We obtained re-certification of ASIC's Sydney office at No. 1 Martin Place to International Standard ISO 14001:2004 *Environmental Management Systems*. At this site, commingled recycling (glass, aluminium, plastic) increased by 6 per cent and paper recycling increased by 35 per cent. ISO certification of ASIC's Melbourne office is expected to be formalised in July 2008 and preparation is under way for the certification of other offices next year.

The ASIC in the Community volunteering program will be launched during 2008. In the meantime, staff gave 42 presentations on financial literacy and consumer-related topics to community groups and schools as part of our new Staff Speaker Program.

manage

ASIC IN THE COMMUNITY



ABOVE: Our staff enthusiastically embraced the ASIC in the Community program.

OUR PEOPLE

Our People & Development function focused on the attraction and retention of quality staff, leadership development, learning and performance. With a clearer employment value proposition and better alignment between our attraction strategies and our business goals, we are now better able to compete for talent in the marketplace.

We had 24 graduates participate in a 12-month rotational program, including structured development, and all places in our 2009 National Graduate Program were filled by year's end. We are developing a new secondment program to encourage secondments into and out of ASIC.

Our learning and development activities provided opportunities for staff to build upon their personal and professional skills, develop functional and technical skills, and enhance management and leadership skills. Some 1350 staff members attended at least one of the 493 training sessions delivered. We also encouraged internal subject matter experts to share their technical skills and knowledge through the communities of practice (COP) network.

Turnover of ongoing staff increased by 1.48 percentage points to 11.48 per cent. We are working to understand the factors that contribute to staff deciding to join, remain with or leave ASIC, through new starter and exit interviews and data from staff opinion surveys.

2008–09

The Strategic Review has redefined our learning and development priorities. A key business change required to meet ASIC's future goals is to build our internal capabilities by developing more highly skilled and market-knowledgeable staff.

We have a renewed focus on building skills and credentials. Senior leaders will be appointed as Network Leaders with responsibility for ensuring that the appropriate development and skill-building pathways are established so that staff can develop market-relevant competencies. Network Leaders will initially focus on developing learning plans for lawyers, accountants, auditors and investigators through university alliances, knowledge networks and other media.

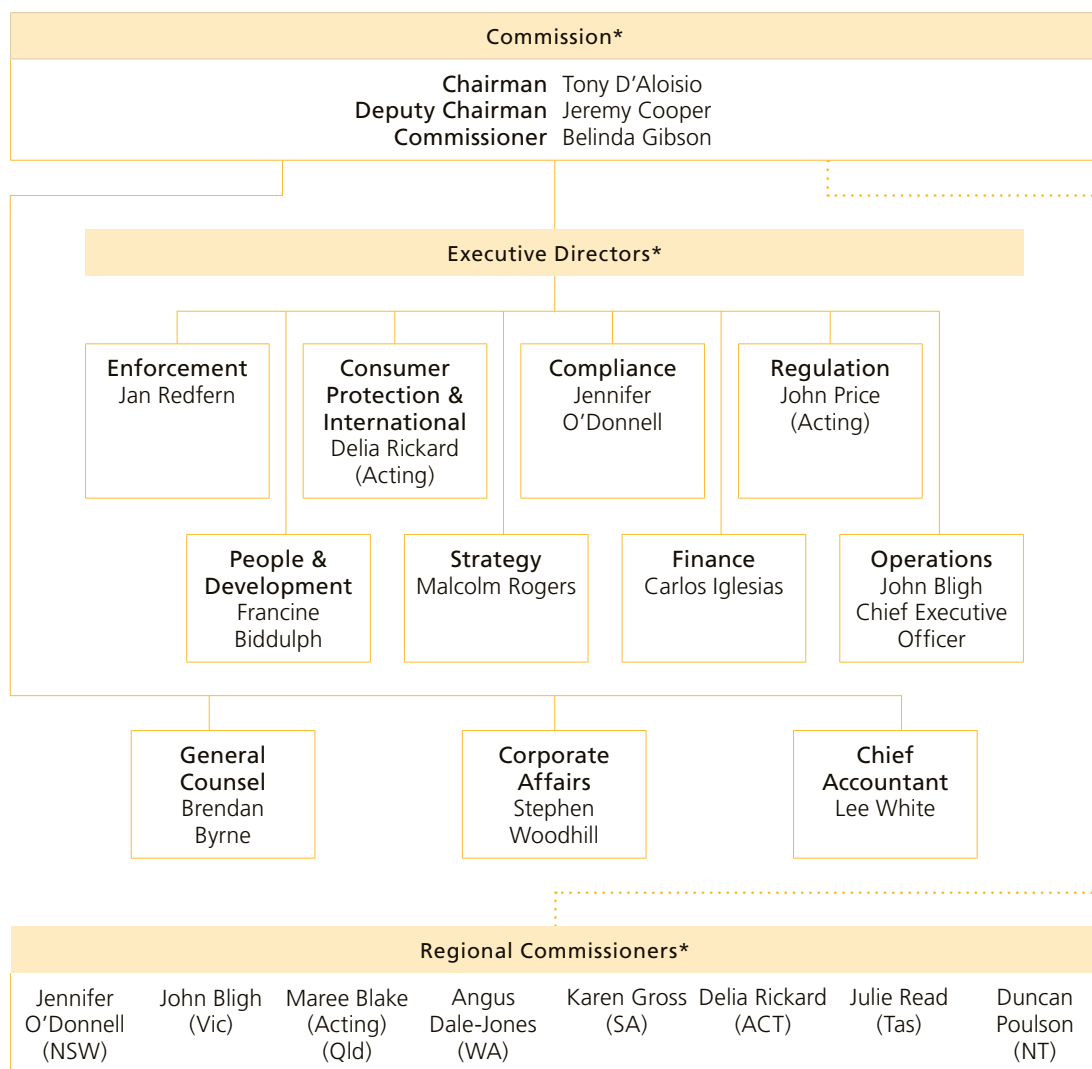
We are also introducing a formal mentoring program and expanding our performance management system to emphasise the desired leadership and credential-building behaviour necessary for productive performance.

An ASIC Academy will be created to provide a formal program for external training opportunities for leaders and potential leaders. The goal is to ensure they stay better connected with the external environment and learn with an externally based peer group. The ASIC Academy will play a critical role in developing world-class leadership skills at a senior level.

Our objective is to build credentials for our people; credentials that are sought after for senior roles both within and outside ASIC. This credential building will make ASIC a place where other people want to come and work.

A key business change required to meet ASIC's future goals is to build our internal capabilities by developing more highly skilled and market-knowledgeable staff.

ORGANISATION



On 1 September 2008, ASIC will move to a new organisational structure that supports its priorities and objectives. As part of the restructure, 20 Financial Economy stakeholder and deterrence teams will have an external

focus to bring about behavioural change, Real Economy teams will focus on improving external service delivery, and Shared Services will focus on supporting ASIC staff.

* Commissioners' biographies, Executive Directors' details and Regional Commissioners' details, see pages 36, 37 and 38.

COMMISSIONERS

LEFT TO RIGHT: Jeremy Cooper, Belinda Gibson, Tony D'Aloisio



Tony D'Aloisio

BA, LLB (Hons) (Melb)

Chairman since 13 May 2007 for a four-year term ending on 12 May 2011. Previously Commissioner from 22 November 2006.

Tony D'Aloisio has extensive commercial and legal experience and has been involved in business policy and regulation, having held a number of company directorships and public positions.

Before joining ASIC, he was Managing Director and Chief Executive Officer at the Australian Stock Exchange from 2004 to 2006.

Previously, he was Chief Executive Partner at Mallesons Stephen Jaques between 1992 and 2004. Mr D'Aloisio joined Mallesons in 1977 as a commercial lawyer, with principal areas of practice in mergers and acquisitions, taxation and restrictive trade practices and international trade and investment. In addition to practising law, he was also involved in extensive assessment of overseas markets in Asia, the UK and the US.

Jeremy Cooper

LLB (Hons) (Melb), SF Fin, FAICD

Deputy Chairman since 12 July 2004 for a five-year term ending on 11 July 2009.

Jeremy Cooper is a lawyer and former partner of Blake Dawson where he was involved in many major corporate transactions, including takeovers, reconstructions, ASX listings and capital raisings. He has been a member of the Law Council's Corporations Committee since 1995 and is a regular speaker and press commentator on corporate law and financial services market issues.

Belinda Gibson

BEC, LLB (Hons) (Syd), LLM (Hons) (Cantab)

Commissioner since 5 November 2007 for a three-year term ending on 4 November 2010.

Before joining ASIC, Belinda Gibson was a senior partner of Mallesons Stephen Jaques' mergers and acquisitions group in Sydney. Her practice was both advisory and transactional, with responsibility for leading teams, managing public and private acquisitions, and joint ventures. She was also part of the corporate governance group established in 2004 to respond to the ASX Governance Recommendations.

Ms Gibson was the Partner-in-Charge of the Mallesons' Sydney office and was also a director of Airservices Australia, the national air traffic control provider, from 2000 to 2004.

Jeffrey Lucy, AM

FCA, FAICD

Commissioner from 13 May 2007 to 10 December 2007. Previously ASIC Chairman from May 2004 for a three-year term and Deputy Chair from February 2003.

Jeffrey Lucy is a Fellow of the Institute of Chartered Accountants in Australia and the Australian Institute of Company Directors. He was made a Member of the Order of Australia for his contribution to the accounting profession and to the business sector as an adviser on corporate and taxation reform.

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SENIOR EXECUTIVES

LEFT TO RIGHT STANDING: John Price, Jan Redfern, Carlos Iglesias

LEFT TO RIGHT SEATED: Delia Rickard, Malcolm Rodgers, Jennifer O'Donnell, John Bligh ABSENT: Francine Biddulph



Directorate functions

Francine Biddulph , Executive Director, People & Development	Delivers human resource and development solutions and services to meet ASIC's people-related goals.
John Bligh , Chief Executive Officer	Responsible for helping to build a high-performance regulator by ensuring that ASIC's organisational processes and systems are positioned to deliver optimal outcomes.
Carlos Iglesias , Executive Director, Finance	Provides resources planning information for strategic decision making and provides a wide range of corporate management and support services.
Jennifer O'Donnell , Executive Director, Compliance	Responsible for influencing the behaviour of participants in the capital markets and financial services industry, with the aims of promoting compliance with the law and raising the ethical standards of business conduct.
John Price , Executive Director (Acting), Regulation	Responsible for building and maintaining the framework in which regulated activity takes place by determining applications for relief from the law, issuing licences and regulating traded markets
Jan Redfern , Executive Director, Enforcement	Works with other directorates to discharge ASIC's function of investigating suspected misconduct and taking appropriate enforcement action.
Delia Rickard , Executive Director (Acting), Consumer Protection & International	Focused on educating consumers and retail investors, making sure there are adequate protections in place for consumers of financial services and building international cooperation.
Malcolm Rodgers , Executive Director, Strategy	Responsible for driving the Strategic Review and the implementation of outcomes from the Review, with ongoing responsibilities for international strategy, economic research and strategic policy.

REGIONAL COMMISSIONERS

LEFT TO RIGHT: John Bligh (Vic), Angus Dale-Jones (WA), Jennifer O'Donnell (NSW), Karen Gross (SA), Duncan Poulson (NT) and Delia Rickard (ACT). ABSENT: Julie Read (Tas) and Maree Blake (Qld).



In 2007–08, ASIC's Regional Commissioners ensured that we understood the specific needs of, and maintained service levels in, all the states and territories. They represented ASIC and reported on our activities and performance to state and territory ministers.

Regional Liaison Committees representing the business community met regularly through the year, received information on our performance and service, and offered ideas.

As a result of the Strategic Review, Regional Commissioners will liaise with the business community more closely and have an enhanced role managing people's career development and building teams in their region.

CAP research

Our Consumer Advisory Panel (CAP) provides an important forum for ASIC to share information with consumer and community groups and gain intelligence about retail market issues. This year, the CAP researched the advice and information sources that consumers use when buying reverse mortgages, including an analysis of advice models used overseas.

Staff speaker program

Under this new program, community groups can request an ASIC staff member to speak at meetings and events on consumer finance topics. We gave 42 presentations between the start of the program in August 2007 and 30 June 2008.

Case study: Indigenous community work

ASIC extended its work with remote Indigenous communities, and made 70 visits to provide education and collect feedback on people's experiences with financial products and services. A key focus has been consumer lending, with ASIC working to reduce the problem of people taking out inappropriate loans and being unable to meet their repayments. As well as work with individual lenders, this included holding a conference on responsible lending in remote communities in March 2008.

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WHERE ASIC FITS IN THE REGULATORY PICTURE

Who ASIC's work covers

Consumers, investors and creditors of corporations and other businesses, including an estimated:*

- 16.6 million people who have a deposit account
- 11.3 million who invest in superannuation or annuities
- 10.2 million who have a major card (credit, debit or charge)
- 6.7 million who have a loan (e.g. home loan, mortgage for investment property, bridging loan, home equity loan, personal loan etc.)
- 5.2 million who directly own shares
- 1.9 million who have invested (managed investments/superannuation) through a financial planner/adviser, and
- 1.0 million who invest in managed investments.

ASIC's statutory aims

In brief, section 1(2) of the ASIC Act requires us to:

- maintain, facilitate and improve the performance of the financial system and entities within it
- promote confident and informed participation by investors and consumers in the financial system
- administer the law effectively and with minimal procedural requirements
- act to enforce and give effect to the law
- receive, process and store, efficiently and quickly, information that is given to ASIC, and
- make information about companies and other bodies available to the public as soon as practicable.

ASIC's legislation

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection under the *Australian Securities and Investments Commission Act 2001*, *Corporations Act 2001*, *Insurance Contracts Act 1984*, *Superannuation (Resolution of Complaints) Act 1993*, *Retirement Savings Accounts Act 1997*, *Superannuation Industry (Supervision) Act 1993*, *Life Insurance Act 1995*, *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* and *First Home Saver Accounts Act 2008*.

Other regulators

APRA is the prudential regulator of the Australian financial services industry. It oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies and most members of the superannuation industry.

State and territory fair trading or consumer affairs agencies regulate consumer credit under the Uniform Consumer Credit Code.

The Reserve Bank of Australia regulates monetary policy and the stability of the financial system.

The ACCC promotes fair trading (except in financial services, which are regulated by ASIC) and competition in the marketplace.

The ASX is a regulated commercial organisation with some monitoring and supervisory responsibilities (e.g. the governance of listed companies and the on-exchange or on-market trade execution by brokers) derived from its commercial licences.

ASIC cooperated with these bodies through consultation at senior levels and regular contact by operational and policy staff.

* Source: Roy Morgan Research, 12 months to March 2008, people aged 14+.

ASIC governance

ASIC governance is effective. Internally, three full-time Commissioners (collectively referred to as ‘the Commission’) direct ASIC’s complex and wide-ranging activities. Externally, ASIC is, pursuant to the ASIC Act, accountable to Parliament and the responsible Minister, to judicial and administrative review, and to the community.

ASIC’s leadership structures, consultative arrangements and disclosure practices ensure that its powers are exercised for the benefit of the community.

Role of Commissioners

Commissioners set priorities, appointed and evaluated the performance of Executive Directors, and approved delegations, budgets and business plans for each directorate.

Through day-to-day contact with executives and staff, and through written reports, Commissioners stayed informed about operational performance, finance, human resources and information technology. A Commissioner has also participated in the Audit Committee, see page 53.

ASIC’s Office of the General Counsel reported directly to the Commission, giving legal counsel to Commissioners on ASIC operations and administration. Other independent legal and accounting experts also advised on specific matters.

The Commission held 20 formal meetings.

Commission member	Eligible to attend	Actual attendance
Tony D’Aloisio	20	19
Jeremy Cooper	16	16
Jeffrey Lucy	10	9
Belinda Gibson	11	11

Executive Directors and General Counsel also attended Commission meetings. Regional Commissioners also attended some meetings.

ASIC management

The Commission has delegated various powers and functions to Executive Directors and staff reporting to them, to ensure that ASIC’s business is carried out efficiently and effectively. Delegations were reviewed regularly and the Commission required its delegates to act in accordance with policies and procedures approved by the Commission.

Commissioners set priorities, appointed and evaluated the performance of Executive Directors, and approved delegations, budgets and business plans for each directorate.

Commissioners’ appointment and remuneration

The Governor-General, on the nomination of the Treasurer, appoints ASIC Commissioners. Commissioners are appointed on fixed terms that may be terminated earlier only for reasons set out in section 111 of the ASIC Act. In June 2008, the Minister approved an increase in the number of incumbent Commissioners from three to five out of a statutory maximum of eight.

The Treasurer may nominate as Commissioners only people who are qualified by knowledge or experience in business, administration of companies, financial markets, financial products and financial services, law, economics or accounting. The Remuneration Tribunal sets Commissioners’ remuneration, which is not linked to their performance.

Reporting to Parliament

ASIC appeared before Committees of the Parliament of Australia on six occasions: the Parliamentary Joint Committee on Corporations and Financial Services (one), the Senate

Standing Committee on Economics (three), the House Standing Committee on Economics, Finance and Public Administration (one) and the House Standing Committee on Legal and Constitutional Affairs (one). We also made a written submission to the Senate Economics Committee about ASIC's bank fees review.

ASIC also submitted its Annual Report, and replied to Parliamentary questions and inquiries on behalf of constituents.

The Parliamentary Joint Committee on Corporations and Financial Services tabled statutory oversight reports on ASIC in August 2007. This important process enabled parliamentarians to examine us and make recommendations. The Committee reported that it remained 'satisfied that ASIC continues to carry out its duties in accordance with the provisions of the corporations legislation'.

Relationship with the responsible Minister

The Ministers responsible for ASIC as at 30 June 2008 are the Treasurer, the Hon Wayne Swan, MP, and, in matters determined by him, the Minister for Superannuation and Corporate Law, Senator the Hon Nick Sherry.

Commissioners reported to the Minister through their Annual Report, and through briefings, submissions and meetings with the Treasurer or Minister for Superannuation and Corporate Law. ASIC also briefed Treasury about current issues and proposed changes to the law.

ASIC's legislation permits the Minister to direct ASIC in certain circumstances. Consistent with ministerial practice across most statutory authorities, such powers have rarely been exercised and were not exercised during the year.

Under section 12 of the ASIC Act, the Minister may direct ASIC about policies and priorities in using our powers or performing our functions, but may not direct ASIC about a particular case. Only one such general direction has been given, in September 1992, about collaboration and consultation between ASIC and the CDPP in the investigation and prosecution of serious corporate wrongdoing.

In addition, Commonwealth Ministers and departmental secretaries from time to time asked ASIC, along with other agencies, to conform to Government policies affecting our general administration, for example, by referring to particular sources of Government information when publishing ASIC information for small business. We exchanged letters of intent with the former Government on expectations of ASIC; these are on our website.

Change to financial governance

From 1 July 2007, ASIC came under a new financial governance arrangement, the *Financial Management and Accountability Act 1997* (the FMA Act), which primarily governs our use of Commonwealth resources and our expenditure of public money.

Relationship with states and territories

The Commonwealth assumed responsibility for corporate regulation from the states and the Northern Territory in 1991, under arrangements agreed (and subsequently revised) as set out in the *Corporations Agreement 2002*.

This Agreement requires the Commonwealth to consult the Ministerial Council for Corporations (MINCO), comprising Commonwealth, state and territory ministers, in appointing ASIC Commissioners, and requires ASIC to:

- consult the relevant state or territory minister in appointing Regional Commissioners
- maintain offices in each state capital and Darwin, and maintain certain minimum service levels in each state and the Northern Territory, and
- maintain regional liaison committees in each state and the Northern Territory to consult the local business community, and use our best endeavours to have a Commission member present at those meetings (see page 38).

ASIC attended MINCO to observe and answer questions about the administration of the corporations legislation. We also attended the Ministerial Council on Consumer Affairs as part of our role in protecting consumers in credit matters, a jurisdiction shared with the states and territories.

PROCUREMENT

Purchasing

To help meet our FMA Act obligations, a Central Procurement Team is responsible for overseeing procurement. The team ensures that all aspects of the Commonwealth procurement guidelines and ASIC's procurement requirements are adequately met.

Under ASIC's procurement framework, responsibility for procurement lies with the appropriate financial delegates. To support delegates, the team provides procurement advice on risk management, probity, specification development and contract management.

The team also manages procurements valued at \$50,000 or more, and complex procurements below this threshold that have been referred by delegates. Qualified procurement officers, with at least a Certificate IV in Government and Procurement, manage complex procurements to ensure that we follow the principles and policies of the Commonwealth procurement guidelines.

AusTender

ASIC advertises all tender opportunities through the AusTender website.

In the past year, we have undertaken procurement to establish panels for the provision of the following services nationally:

- IT contracting
- risk management services
- recruitment services
- legal services
- printing
- actuarial calculators, and
- computer forensics.

We also undertook procurement for Strategic Review services (including surveys, research, business design, change processes, challenges and strategic thinking) and corporate governance relating to the STAR Program.

During 2007–08, 105 new consultancy contracts were entered into involving total actual expenditure of \$8,836,668.

We reported contracts of \$100,000 or more on our website, in accordance with the Senate Order on Departmental and Agency Contracts. Information on expenditure on contracts and consultancies is also available on the AusTender website at www.tenders.gov.au. Our annual procurement plan was published on AusTender by 1 July 2007, and regularly updated during the year.

There were two contracts, which were exempted from the contract reporting requirements. These contracts were for the provision of expert advice in relation to a current investigation and any subsequent administrative and/or civil proceedings. The contracts were for \$11,500 and \$13,000.

Access by the Auditor-General

All contracts we entered into contained provisions allowing the Auditor-General access to information held by contractors relating to contract performance.

Consultancy services

During 2007–08, 105 new consultancy contracts were entered into involving total actual expenditure of \$8,836,668. In addition, 86 ongoing consultancy contracts were active during 2007–08, involving total actual expenditure of \$817,670.

A list of all consultancy contracts let in 2007–08 to the value of \$10,000 or more (inclusive of GST) is available on our website at www.asic.gov.au/procurement.

Managing

ASIC'S PEOPLE

Health and safety at work

To help encourage low rates of incidents and accidents in the workplace, we introduced the Supporting Safety Recognition Award, which identifies, rewards and promotes contributions made by employees.

There were 22 workers' compensation claims lodged, with 3 claims rejected by Comcare. Most claims were for repetitive strain injuries and falls resulting in muscle strain and back pain.

Our free employee assistance program is available to give assistance for personal and work-related problems, and we conducted an employee health survey to contribute to the development of a strategic framework for a corporate health program.

In April and May, 33 per cent of staff participated in ASIC's free influenza vaccination program. An evaluation of the previous year's program showed that vaccinated staff took fewer days of personal leave during the peak influenza period (1 June to 30 September).

We financially supported 196 participants in the Global Corporate Challenge, aimed at promoting health and wellbeing by encouraging people to measure their daily walking distance and compete against other teams in a virtual journey around the world.

We acted to prevent injuries by conducting 200 workstation assessments and implementing any necessary ergonomic adjustments.

There were two incidents of serious personal injury that were conveyed to Comcare under section 68 of the *Occupational Health and Safety Act 1991* (OH&S Act). There were no investigations conducted during the year under section 29 or 47 of the OH&S Act.



Our free employee assistance program is available to give assistance for personal and work-related problems, and we conducted an employee health survey to contribute to the development of a strategic framework for a corporate health program.

Industrial and workplace relations

To attract and retain high-quality staff, we provide a range of financial rewards and non-financial benefits, such as flexible working

arrangements. Eligible employees received performance bonuses based on the outcomes of their performance review (3–15 per cent of salary). There is also access to salary packaging and study assistance, including assistance with fees and leave to attend courses and exams.

Table 3: Performance payments for 2006–07 paid in 2007–08,* by classification

Employee level	Number of recipients	Aggregate	Performance payment range	Average performance payment
ASIC4	140	\$426,662	\$473–8,512	\$3,048
EXEC1	281	\$1,185,149	\$459–13,927	\$4,218
EXEC2	344	\$2,073,824	\$1,448–23,912	\$6,029
SES	55	\$642,010	\$2,712–35,171	\$11,673
Aggregate performance payments for the whole of ASIC				\$4,327,645

* There were no performance payments paid relating to previous financial years.

The ASIC Collective Agreement 2007–09 (CA) was approved by staff in July 2007. It supports a culture of rewarding performance and recognises flexibility as an integral component in balancing work and other commitments. Productivity savings to fund the salary increases

in the CA came from organisational savings (primarily new or enhanced IT applications) and specific initiatives within business units (such as reductions in travel and greater use of IT workflows).

Table 4: Industrial arrangements for ASIC staff

Classification	ASIC Act 120(3) contract	AWA	CA	CA24*	Total
ASIC 1–3 (APS1–5)			569		569
ASIC 4 (APS6)		146	175		321
EXEC 1	4	287	24	19	334
EXEC 2	14	348	10	19	391
SES and equivalent	31	28			59
Total	49	809	778	38	1,674†

* CA with supplementary conditions included in a *Public Service Act 1999* 24(1) determination.

† The actual number of industrial arrangements, which includes part-time staff.

While Australian Workplace Agreements (AWAs) are no longer offered, existing AWAs remain in force until they are terminated or replaced by another agreement. The majority of our executive-level staff are covered by AWAs that recognise the specific requirements of work at the executive level, as well as the expectations of these staff in terms of their reward and recognition.

Staff were offered AWAs at the ASIC 4 level, which provided the option of a performance bonus not available under the CA.

While Australian Workplace Agreements (AWAs) are no longer offered, existing AWAs remain in force until they are terminated or replaced by another agreement.

To maintain parity with existing staff in similar roles, new employees at the executive levels are covered by the CA and have their terms and conditions supplemented under the provisions of section 24(1) of the *Public Service Act 1999*.

The ASIC Act includes a specific employment power for the engagement of executive and senior executive staff under section 120(3) contracts on terms and conditions consistent with those of our Australian Public Service (APS) staff.

Table 5: Salary ranges

Classification	Minimum per annum	Maximum per annum
ASIC 1 (APS 1)	\$35,473	\$39,206
ASIC 2 (APS 2/3)	\$41,253	\$49,354
ASIC 3 (APS 4/5)	\$52,584	\$60,276
ASIC 4 (APS 6)	\$62,921	\$71,231
Exec Level 1	\$78,709	\$96,562
Exec Level 2	\$90,777	\$132,515
SES	\$125,000	\$260,000

Remuneration for an SES officer is determined by the responsibility and accountability of the role, relativities with the remuneration of SES officers across the APS (and, where appropriate, the external marketplace in order to attract and retain appropriately skilled staff), and the particular skills, knowledge and experience of SES-level candidates for the position.

Equal opportunity and merit

ASIC is an equal opportunity employer. Excluding contractors, consultants and agency temporary employees, women made up 45 per cent of our senior executives, down from 47 per cent, and comprised 56 per cent of our employees.

Excluding contractors, consultants and agency temporary employees, women made up 45 per cent of our senior executives, down from 47 per cent, and comprised 56 per cent of our employees.

Table 6: Operative and paid inoperative ASIC staff (including SCT* and CALDB† staff) by classification and gender (as at 30 June 2008)‡

		Ongoing							
		Full-time				Part-time			
		Female		Male		Female		Male	
Employment Type	Classification	2008	2007	2008	2007	2008	2007	2008	2007
Appointee**	CHAIR				1				
	DEP CHAIR	1							
	MEMBER								
Appointee Total		1			1				
ASIC Act	ASIC4								
	EXEC1			1					
	EXEC2								
	SES	4	3	2	4				
	CONS#								
ASIC Act Total		4	3	3	4				
Public Service Act	ASIC1	2	2	1	2	1			
	ASIC2	115	114	43	34	51	37	4	4
	ASIC3	142	137	79	76	19	17	1	1
	ASIC4	143	136	121	106	21	16		
	EXEC1	136	127	139	129	16	18	4	3
	EXEC2	89	75	199	193	31	29	6	8
	SES	12	12	14	14	2	3		
Public Service Act Total		637	603	595	556	141	119	15	17
Total		642	606	598	561	141	119	15	17

* Superannuation Complaints Tribunal (SCT)

† Companies Auditors and Liquidators Disciplinary Board (CALDB)

‡ Inconsistencies in totals and subtotals are due to rounding of the source data.

**Includes the Chair and Acting Deputy Chair (APS ongoing staff) of the SCT.

Includes all non-payroll IT contractors, secondees and agency staff.

Non-ongoing								Total	
Full-time				Part-time					
Female		Male		Female		Male			
2008	2007	2008	2007	2008	2007	2008	2007	2008	2007
1		1	1					2	2
		1	1		1			2	2
1			1					1	1
1		2	3		1			5	5
1	1	4	1					6	3
6	6	9	11				1	14	18
6	5	15	8	1	1			27	21
28	27	42	40					70	67
40	39	69	60	1	1		1	117	109
19	17	5	5	9	8	2	1	39	36
25	30	8	17	8	10	2	1	255	248
14	26	8	15		2	1	1	264	275
10	19	10	12	1	1	1		307	290
10	11	11	9	1				317	298
4	3	8	9	1	2			338	319
			1					27	30
82	105	50	68	20	25	6	4	1,547	1,496
124	144	122	131	21	26	6	5	1,669	1,610

Table 7: ASIC employees (including SCT and CALDB staff) by classification and location (as at 30 June 2008)*

Classification	VIC		NSW		QLD		WA		SA	
	2008	2007	2008	2007	2008	2007	2008	2007	2008	2007
CHAIR	1	1	1	1						
DEP CHAIR	2	2								
MEMBER			1	1						
SES	16	16	31	28	3	2	1	1	2	3
EXEC2	105	94	176	169	28	31	24	24	14	13
EXEC1	101	96	143	132	29	30	30	26	11	10
ASIC4	115	110	113	104	32	31	23	27	16	11
ASIC3	116	116	70	82	32	31	21	20	17	18
ASIC2	188	182	29	30	15	12	12	13	6	5
ASIC1	39	36								
CONS [†]	7	6	57	53	2	2	3	4		1
Total	690	659	622	600	142	139	114	115	66	60

* Inconsistencies in totals and subtotals are due to rounding of the source data.

† Includes all non-payroll IT contractors, secondees and agency staff.

Staff ethics

All ASIC staff must adhere to the APS values and code of conduct under the Public Service Act. The values and code require impartiality, honesty, diligence and service, and all staff are required to attend training to learn about and apply the values and code.

Formal procedures require disclosure of any real or apparent conflict of interest. Commissioners and staff are required to take no part in decisions where real or apparent conflicts of interest may arise. We set up special reporting and decision-making procedures to maintain the integrity of our decisions.

Members of the Commission disclosed to the Minister all direct and indirect pecuniary interests in businesses, companies or financial products regulated by ASIC.

Staff were required to keep registers of interests that supervisors may inspect at any time, and senior executives were required to submit statements of interests to the Chairman. Biannual disclosures are made by staff in February and July. The Commission has appointed senior disclosure officers to advise managers and staff on how to handle possible conflicts.

The APS values and code of conduct are covered in induction training for new staff and through our continuing education of staff about their responsibilities at work.

ACT		TAS		NT		Total	
2008	2007	2008	2007	2008	2007	2008	2007
						2	2
						2	2
						1	1
1	1	1	1			55	52
2	2	4	4			353	337
4	4	2	1	2	1	322	300
3	3	4	4		1	307	290
3	3	2	2	2	2	264	275
3	3	2	3		1	255	248
						39	36
1	1					70	67
17	17	15	15	4	5	1,669	1,610

Fraud control

In 2007–08, we continued to implement the strategies outlined for the 2007–09 fraud control plan, which covers strategies and processes to avoid, detect, investigate and minimise the effects of fraud. We maintained reporting and data collection mechanisms that met our needs and complied with the Commonwealth Fraud Control Guidelines.

All ASIC staff must adhere to the APS values and code of conduct under the Public Service Act. The values and code require impartiality, honesty, diligence and service.

ASIC SERVICE CHARTER

The ASIC Service Charter sets out the most common interactions we have with our stakeholders and how quickly they can expect us to respond to their phone calls, complaints, requests or applications.

Below is a report of our performance for the 2007–08 financial year against the commitments made in the Service Charter and compared with our 2006–07 performance.

Table 8: ASIC Service Charter results

Service	Service Charter target	2007–08 performance (1 July 07 – 30 June 08)	2006–07 performance (1 July 06 – 30 June 07)
General phone queries	We aim to answer your telephone queries on the spot	95.3% of calls answered on the spot (627,351 of 657,067) 4.7% referred to specialist staff (29,716 calls)	94% of calls answered on the spot (630,856 of 670,755) 5.9% referred to specialist staff (39,899 calls)
General email queries	We aim to reply within 2 business days to email queries sent to: info.enquiries@asic.gov.au info@asic.gov.au onlineaccess@asic.gov.au	98.3% replied to in 2 business days (51,272 of 52,185)	80% replied to in 2 business days (23,091 of 29,057)
General correspondence	We aim to acknowledge receipt of general correspondence within 14 days of receiving it, and give a full response within 28 days: General correspondence to Public Information Program about our public database and registers, including fee waivers Correspondence received by our Correspondence Control Unit	90.3% fully responded to within 28 days (45,823 of 50,723) 100% acknowledged within 14 days (540 letters) 77% responded to within 28 days (444 of 574 letters)	95% fully responded to within 28 days (52,796 of 55,734) 100% acknowledged within 14 days (656 letters) 71% responded to within 28 days (470 of 661 letters)

Service	Service Charter target	2007–08 performance (1 July 07 – 30 June 08)	2006–07 performance (1 July 06 – 30 June 07)
Registering a company	We aim to complete company incorporations within 1 business day of receiving a complete application	98% in total (150,078 of 153,172) 96.7% of paper forms completed in 1 day (21,363 of 22,114) 98.2% of electronic forms completed in 1 day (128,715 of 131,058)	97% in total (156,522 of 161,673) 86.7% of paper forms completed in 1 day (21,959 of 25,320) 98.7% of electronic forms completed in 1 day (134,563 of 136,353)
Updating company information and status	We aim to enter critical changes to company information in the corporate register within 2 business days	95.3% (1,034,726 of 1,085,602) 84.4% of paper forms in 2 business days (245,675 of 291,084) 99.3% of electronic forms entered in 2 business days (789,051 of 794,518)	92% (960,636 of 1,050,260) 71.5% of paper forms in 2 business days (214,296 of 299,908) 99.5% of electronic forms entered in 2 business days (746,340 of 750,352)
Registering as an auditor	We aim to decide whether to register a person as an auditor within 28 days of receiving a complete application	100% registered within 28 days (112 individual applications and 18 authorised audit companies)	100% registered within 28 days (112 individual applications and 18 authorised audit companies)
Registering as a liquidator	We aim to decide whether to register a person as a liquidator or official liquidator within 28 days of receiving a complete application	Liquidators: 73% decided within 28 days (16 of 22 applications) Official liquidators: 89% decided within 28 days (25 of 28 applications)	Liquidators: 83% decided within 28 days (15 of 18 applications) Official liquidators: 83% decided within 28 days (24 of 29 applications)
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application	99% registered in 14 days (512 of 519)	95% registered in 14 days (583 of 616)

ASIC SERVICE CHARTER CONTINUED ...

Service	Service Charter target	2007–08 performance (1 July 07 – 30 June 08)	2006–07 performance (1 July 06 – 30 June 07)
Applying for or varying an AFS licence	We aim to decide whether to grant or vary an Australian financial services licence within 28 days of receiving a complete application	<p>Granting a licence: 67% decided in 28 days (272 of 404 applications)</p> <p>Varying a licence: 75% decided in 28 days (654 of 874 applications)</p> <p>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</p>	<p>Granting a licence: 65% decided in 28 days (310 of 474 applications)</p> <p>Varying a licence: 71% decided in 28 days (503 of 709 applications)</p> <p>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</p>
Applying for an Australian market licence	We aim to give the Minister our recommendation about simple applications to operate financial markets within 12 weeks of receiving an application	N/A (no recommendations to Minister made in this period)	100% to Minister within 12 weeks (3 applications)
Applying for relief	If you lodge an application for relief from the Corporations Act that does not raise new policy issues, we aim to give you an in-principle decision within 21 days of receiving all necessary information and fees	<p>71% of in-principle decisions made within 21 days (2,188 of 3,101 applications)</p> <p>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</p>	<p>74% of in-principle decisions made within 21 days (2,278 of 3,062 applications)</p> <p>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</p>
Complaints about misconduct by a company or Individual	If you make a complaint about the activities of a company or individual, we aim to respond to you within 28 days of receiving all relevant information	78% finalised within 28 days (8,880 of 11,436)	81% finalised within 28 days (8,620 of 10,681)

AUDIT COMMITTEE AND AUDIT, ASSURANCE AND COMPLIANCE SERVICES

The Audit Committee, under a charter agreed between the Committee and the Commission, assisted Commissioners maintain and improve:

- the effectiveness and integrity of ASIC risk management and internal controls
- the credibility, objectivity and quality of ASIC's financial reporting and financial statements, and
- ASIC's compliance with relevant laws.

The charter was amended in 2007 to reflect ASIC's transition to the governance of the FMA Act.

The Committee reviewed ASIC's 2007–08 Financial Statements and provided a degree of assurance to the Commissioners before they signed those statements.

The Committee met four times during the year.

Members	Eligible to attend	Meetings attended
Robert Savage, appointed March 2000; Chairman since January 2005. Reappointed as Chairman commencing 30 January 2008.	4	4
Robert Lynn, appointed March 2002; Deputy Chairman since January 2005. Reappointed as Deputy Chairman commencing 30 January 2008.	4	4
Byram Johnston, appointed January 2005.	4	4
Belinda Gibson, ASIC Commissioner, appointed December 2007.	2	2
Jeffrey Lucy, ASIC Chairman (until 12 May 2007) and ASIC Commissioner (13 May 2007 to 10 December 2007), appointed February 2006. Resigned December 2007.	2	2
Angus Dale-Jones, ASIC WA Regional Commissioner, initially appointed in May 2005 for two years. Reappointed May 2007. Resigned June 2008.	4	4

The Audit Committee Chairman, Deputy Chairman and one other member are independent members, appointed from outside ASIC. All three independent members are Chartered Accountants, company directors and have significant financial and business experience. The third independent member, Mr Johnston, is also the independent Chairman of the ASIC IT Board.

The internal appointees are ASIC Commissioners Jeffrey Lucy (to December 2007) and Belinda Gibson (since December 2007), representing the Commission, and WA Regional Commissioner Angus Dale-Jones.

The National Manager Audit, Assurance and Compliance reports to the Audit Committee.

The Committee sent a report to the Commission after each meeting. The Chairman of the Committee met separately with the ASIC Chairman on several occasions. He also met separately with Executive Directors and Directors in charge of ASIC's business units.

In 2007–08, the Audit Committee considered a report arising from an independent review of the methodology and processes used by ASIC's internal auditors, and recommended that the Commission accept all recommendations made in the report.

The Australian National Audit Office provided external audit services. Both external and internal audit representatives attended Audit Committee meetings.

Robert R Savage

Chairman, ASIC Audit Committee
July 2008

APPENDICES

Publications

We published the following free publications:

- Electronic newsletters: *FIDO News* (financial tips and safety checks), *FSR Update*; printed newsletter: *InFocus* (company information).
- Booklets and brochures: including *Investing in debentures*, *Your money*, *Getting advice*, *Super decisions* (last booklet in nine languages including English).
- Annual Report, media and information releases, reports, consultation papers, regulatory guides and information sheets accessible through our website or Infoline.

We published for sale *ASIC Digest*, *ASIC Working Guide for Accountants*, *ASIC Working Guide for Company Secretaries*, *ASIC Working Guide for Company Directors*, *ASIC Financial Services Policy Handbook*, *ASIC Forms* on CD-ROM, *ASIC Managed Investments Handbook* and *ASIC Policy Alert*.

Freedom of Information Act

You have a right to apply to ASIC for access to documents in ASIC's possession under the *Freedom of Information Act 1982* (FOI Act). You must apply in writing, stating which documents you want to obtain. Requests should be directed to the Administrative Law Coordinator in your state or territory or to the Manager, Administrative Law, in Sydney. For further information on how to apply, visit www.asic.gov.au.

Categories of documents in ASIC's possession relate to matters including:

- operational matters such as:
 - licence and professional registration applications
 - applications from businesses, correspondence, internal working papers, policy proposals and submissions, and
 - administrative, civil and criminal enforcement matters, including documents obtained under ASIC's compulsory powers

- law reform, including submissions and proposal papers
- correspondence with members of the public, government entities, Parliamentary committees, business entities and other bodies
- administration, including accommodation, accounts, expenditure, invoices, audit, human resources, recruitment and staff management, delegation and authorisation
- reference materials, including those contained in the library, handbooks, guidelines, manuals, regulatory guides, media releases, information releases, pamphlets and annual reports, and
- other documents held as public database information (ASCOT).

As required by section 9 of the FOI Act, we advise that you may inspect and purchase by subscription the following from Thomson-CPD, phone 1800 036 186: *ASIC Digest*, which contains, among other things, regulatory guides, media releases, information releases, summaries of most ASIC instruments, class orders, and pro-formas for various types of standard relief.

Note: Documents available to the public through ASIC's website (www.asic.gov.au), ASCOT or the *ASIC Digest* and library material maintained for reference purposes are not available under the FOI Act.

Commonwealth Disability Strategy Report

As a regulator, ASIC published (in formats accessible for people with disabilities) all its publicly available information on regulations, quasi-regulations and compliance reporting. This occurred through our website on the day materials were released, and in hard copy through our commercial publisher and on request through ASIC's Infoline. Our website substantially complied with accessibility guidelines, within the limits of the technology at our disposal.

As an employer, ASIC incorporated the requirements of the *Disability Discrimination Act 1992* when developing and reviewing employment policies, procedures and guidelines. In particular:

- recruitment information was released in accessible electronic format, within 24 hours, or posted out in hard copy on request within 24 hours. No requests were received for other formats.
- Human Resources staff advised managers and recruiters on reasonable adjustments required for job applicants and staff with disabilities (including staff access to training).
- information on disability issues was included in training programs as appropriate.

ASIC also has internal and external grievance procedures, including review of actions under the Public Service Act and appeals to the Australian Public Service Commission. Dispute avoidance and settlement provisions have been included in the ASIC collective agreement. Staff also had access to an Employee Assistance Program.

Disclosure under the Environment Protection and Biodiversity Conservation Act

Section 516A of this Act requires us to report matters relevant to environmentally sustainable development (ESD). In consequence, we report that:

- the only activities of the organisation relevant to ESD principles concern procurement of goods and services
- ASIC's administration of legislation is not related to ESD principles
- none of the outcomes specified for ASIC in an Appropriation Act have ESD implications
- the effects of our activities on the environment are set out on page 32
- the measures we have taken to minimise our environmental impact are also set out on page 32, and
- we review and increase the effectiveness of those measures through internal evaluation regimes, environmental auditing, benchmarks or targets, see page 32.

Disclosure under Commonwealth Electoral Act

Section 311A of this Act requires us to report for the financial year all amounts paid by us or on our behalf to:

- advertising agencies and polling organisations: nil
- market research organisations: Investment Trends, \$44,550; Chant Link and Associates, \$172,435.34; Allen Consulting Group, \$218,868.15; SuperRatings, \$23,650; brandmanagement, \$111,614.96; Newspoll, \$12,650; Roy Morgan, \$131,522; and Eureka Strategic Research, \$143,731.44
- direct mail organisations: Chandler, \$2040; Recall Information Management, \$8884; and Hermes Precisa, \$7625, and
- media advertising organisations: hma Blaze \$473,592.

Disclosure under ASIC Act

As required by section 136 of the ASIC Act, we report that ASIC did not exercise its powers under Part 15 of the *Retirement Savings Account Act 1997* or under Part 29 of the *Superannuation Industry (Supervision) Act 1993*. No relevant applications were received.

ASIC OUTCOMES AND OUTPUTS

Our outcome and output framework sets out what we have agreed to deliver to government. The framework reflects the products and services we deliver and informs our budget and reporting process. Each year, details of the framework are outlined in the Portfolio Budget Statements, along with the relevant performance information.

Below is the framework and performance information for 2007–08 for ASIC’s four outputs.

Each year, details of the framework are outlined in the Portfolio Budget Statements, along with the relevant performance information.

Output 1.1.1: Policy and guidance about the laws administered by ASIC \$14.3 million

Quality

Extent to which advice is approved by the Minister

ASIC provides advice to the Minister on rule changes proposed by market operators. The Minister approved all operating rule changes, except a proposal about accreditation requirements in relation to derivatives advisers.

Extent to which consumers, investors and other stakeholders are consulted during policy formation

ASIC consults about all major policy projects. We adhere to the Government’s policy on best-practice consultation. When developing policy, we generally publish a consultation paper that sets out our policy proposals and invites comments from the public. We may also undertake targeted consultation where a policy affects a particular group. We generally publish the submissions received and our response (which explains how the submissions influenced our final policy) on our website.

Consumer issues in financial services exposed and steps taken to address them

For details, see pages 16–19.

Stakeholder liaison to ensure understanding of emerging consumer issues

For details, see page 38.

Output 1.1.1: Policy and guidance about the laws administered by ASIC continued ...

Quantity

Number of new and amended regulatory guides, guidance notes and class orders issued. Press release to accompany all new policy statements, guidance notes and class orders.	20 new and amended regulatory guides (formerly called policy statements) and 23 class orders. A media or information release accompanied all new regulatory guides.
80 per cent of advice to Minister on markets rule changes within 14 days of lodgment	93% of advice on markets rule changes was sent to the Minister within 14 days (13 of 14).
Number of information requests to and from overseas regulators	ASIC received 712 requests from overseas regulators and made 188 requests.
Number of visits to FIDO	1,469,307 (up 40%)
Number of consumer publications distributed	127,154 copies (<i>Your money</i> , <i>Getting advice</i> , <i>Super decisions</i> and <i>You can complain</i>)

Output 1.1.2: Comprehensive and accurate information on companies and corporate activity

\$80.2 million

Quality

Percentage availability of the database	99.63% during business hours; 24-hour accessibility 99.55%
Percentage of online paid searches to counter searches	98.9% online, 1.1% counter
Calls answered < 2 minutes	80.3%
Percentage of key documents processed < 48 hours of receipt	95.3%
Percentage of documents requiring further details before entering onto database	5.9%

Quantity

Total use of the databases (free and paid)	Free: 32,584,777 (63%); paid: 18,864,851 (37%); total: 51,449,628
Percentage of documents lodged electronically	80.4%
Percentage of company data lodged on time	94.7%
Number of companies targeted to ensure compliance	15,090
Number of companies deregistered for failing to pay their annual review fee	23,565 deregistered (of 32,674 targeted)
Number of civil actions undertaken to ensure lodgment of financial reports	684 proceedings issued

ASIC OUTCOMES AND OUTPUTS CONTINUED ...

Under purchaser–provider arrangements, ASIC provides access to information from its databases to 18 Commonwealth and state government agencies, to assist the agencies perform their regulatory and law enforcement functions. Some eight Commonwealth agencies, including the Australian Tax Office and the CDPP, have access to non-public information. The terms of their access are governed by data access agreements.

Output 1.1.3: Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity

\$66.1 million

Quality

Feedback on extent to which market operators accept and implement ASIC's recommendations	ASIC's recommendations to market operators are generally made in our annual assessment reports. Market licensees' implementation of our recommendations is high and is generally done within 12 months of the recommendation being made.
Extent to which serious compliance problems are identified < 12 months after market licence granted	If they existed, serious compliance issues with market licensees would generally be identified through ongoing monitoring and ASIC's annual assessment.
Extent to which serious problems with scheme compliance plans and constitutions are identified	Some 5 schemes were not approved. ASIC negotiated changes to another 112 documents (of 519 lodged).
Extent to which recommendations are approved by the Minister	An exemption was approved for GFI Brokers Limited.
Stakeholders acceptance and understanding with discretionary decision making (number of AAT appeals)	There were 30 AAT appeals lodged and 24 decisions handed down (of which 6 appeals were affirmed, 15 dismissed and 3 set aside).

Output 1.1.3: Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity continued ...

Quantity

80% of findings on assessment of markets advised to Minister within 2 months of inspection	In 2007–08, 26 assessments were conducted and 62% of findings were reported to the licensee within 2 months. However, no findings were reported to the Minister within 2 months.
70% of applications for AFS licences and variations to AFS licences decided in 28 days	72%
70% of managed investment schemes registered within 8 business days	ASIC is required to register managed investment schemes within 14 calendar days (section 601EB of the Corporations Act). That statutory measure was met by ASIC in 99% (512 of 519) of cases. Some 37.6% of schemes were registered within 8 business days.
80% of recommendations to Minister on new market licences made within 12 weeks of receiving an application	No recommendations to the Minister on new market licenses were made in this period.
70% of relief applications decided in principle within 21 days	71%
Number of additional disclosures to the market obtained	Following ASIC action, 2 listed companies made additional disclosure to the market.
Number of disclosure documents reviewed: – product disclosure statements, and – prospectuses	236 124 product disclosure statements 112 prospectuses
Number of documents reviewed where corrective disclosures achieved for: – product disclosure statements, and – prospectuses	163 88 product disclosure statements 75 prospectuses
Number of compliance surveillances	224

Output 1.1.4: Enforcement activity to give effect to the laws administered by ASIC \$131.0 million

Quality

50% of investigations resourced that led to a conclusion within 6 months of commencement	36%	We classify investigations as general and complex, and aim to complete 'general' within 6 months. We completed 59% of general investigations within 6 months. The proportion of complex investigations has increased from 28% to 54%.
No more than 15% of investigations resourced that led to a conclusion after 12 months of their commencement	33%	
70% of investigations resourced that led to an enforcement outcome	69%	
Analysis of reports within agreed timeframes		We finalised 78% of the 11,436 complaints received in 28 days, ahead of our target of 70%.
Percentage of complaints resolved		Some 34% of complaints were resolved. An additional 22% were referred for compliance, investigation or surveillance; there was no offence or ASIC lacked jurisdiction to act in 17% and another 27% were analysed, assessed and recorded. For more details, see page 29.
Successful implementation of Assetless Administration Fund leading to more investigation of assetless administrations and enforcement actions arising from them		New guidelines and awareness raising led to more investigation of assetless administrations. Some 36 of the 66 directors disqualified or banned during the year were the subjects of reports funded, and 7 briefs to the CDPP were from matters funded by the Fund. For more details, see page 23.

Output 1.1.4: Enforcement activity to give effect to the laws administered by ASIC continued

Quantity	
Number of investigations commenced	154
Number of litigations concluded	280
Number of jailings and number of bannings	23 jailed and 40 banned under section 206B(1) of the Corporations Act (automatic disqualification)
Number of officers disqualified/banned from managing corporations	66 officers banned or disqualified directly as a result of ASIC action, plus 40 who were automatically disqualified under section 206B(1) of the Corporations Act.
Number of briefs provided to the CDPP	72 briefs provided to the CDPP
Number of illegal investment schemes wound up	80
Amount of funds frozen and recovered for investors from illegal investment schemes	Over \$50 million in funds frozen
Number of complaints analysed and assessed by ASIC	11,436
Number of liquidators', administrators' and receivers' reports processed by ASIC	8,579



SIX-YEAR SUMMARY

Business data	2007–08	2006–07	2005–06	2004–05	2003–04	2002–03
Companies (total)	1,645,805	1,572,054	1,480,684	1,427,573	1,359,305	1,299,985
New companies registered	149,403	156,424	121,298	121,463	122,441	107,917
Authorised financial markets	17	17	15	13	8	4
Licensed clearing and settlement facilities	5	5	5	5	4	3
Australian financial services licensees	4,769	4,625	4,415	4,135	3,853	626
Registered company auditors*	5,495	5,658	5,848	6,163	6,506	6,440
Registered liquidators	674	689	747	762	758	835
Registered managed investment schemes	5,108	4,680	4,310	4,093	3,765	3,487
Prospectuses lodged†	1,011	960	808	1,064	1,148	1,658
Product disclosure 'in use' notices‡	9,708	10,066	12,480	12,708	7,563	579
Takeovers	113	65	60	68	67	55

* Figures for previous years have been restated to excluded authorised audit companies.

† From 11 March 2002, 'product disclosure statements' replaced 'prospectuses' for managed funds. After 11 March 2004, prospectuses were used only for company securities.

‡ Financial product issuers notify ASIC about the 'product disclosure statement' issued for each financial product.

ASIC performance data	2007–08	2006–07	2005–06	2004–05	2003–04	2002–03
Criminals jailed	23	21	17	27	28	29
Fundraising where ASIC required additional disclosure	\$2.59 billion	\$17b	\$9.5b	\$6b	\$4b	\$0.4b
Recoveries, costs compensation, fines or assets frozen	\$146 million	\$140m	\$215m	\$123m	\$121m	\$123m
% successful litigation	94%	97%	94%	94%	93%	94%
Litigation concluded	280	430	386	193	220	222
Reports of crime and misconduct	11,436	10,682	12,075	10,752	9,970	9,292
Total searches of ASIC databases	51 million	55m	45m	36m	36m	27m
% company data lodged on time	94.7%	95%	94%	94%	92%	93%
Fees and charges raised for the Commonwealth	\$545 million	\$519m	\$543m	\$531m	\$457m	\$405m
Staff (FTEs)	1,669	1,581	1,471	1,570	1,531	1,396
Financial summary (\$m)						
<i>Operations</i>						
Total operating expenses	273.8	255.7	217.9	208.0	196.2	172.6
Total operating revenue	291.9	257.8	224.7	208.0	191.3	172.5
<i>Financial position</i>						
Current assets	126.8	59.3	40.8	23.4	23.0	15.6
Non-current assets	49.8	49.7	37.4	34.8	35.2	33.3
Current liabilities	77.8	67.0	58.4	45.9	42.9	29.0
Non-current liabilities	22.9	20.8	13.2	11.2	20.2	20.9
Total equity	76.0	21.3	6.7	1.1	(4.9)	(1.0)

FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2008

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INDEPENDENT AUDITOR'S REPORT

To the Minister for Superannuation and Corporate Law

Scope

I have audited the accompanying financial statements of the Australian Securities and Investments Commission (the Commission) for the year ended 30 June 2008, which comprise: a statement by the Commissioners and the Chief Financial Officer; income statement; balance sheet; statement of changes in equity; cash flow statement; schedules of commitments, contingencies and administered items; a summary of significant accounting policies; and other explanatory notes.

The Responsibility of the Commission for the Financial Statements

The members of the Commission are responsible for the preparation and fair presentation of the financial statements in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997* and Australian Accounting Standards (including Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

My responsibility is to express an opinion on the financial statements based on my audit. My audit has been conducted in accordance with Australian National Audit Office Auditing Standards, which incorporate Australian Auditing Standards. These Auditing Standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Commission's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the members of the Commission, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Independence

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

Auditor's Opinion

In my opinion, the financial statements of the Australian Securities and Investments Commission:

- (a) have been prepared in accordance with Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, and Australian Accounting Standards (including Australian Accounting Interpretations); and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Securities and Investments Commission's financial position as at 30 June 2008 and its financial performance and its cash flows for the year then ended.

Australian National Audit Office



P Hinchey
Senior Director
Delegate of the Auditor-General

Sydney
1 August 2008

STATEMENT BY COMMISSIONERS AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2008 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*.

This statement is made in accordance with a resolution of the Commission members.



A. M. D'Aloisio

Chairman
1 August 2008



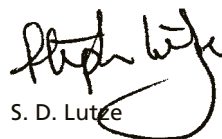
J. R. Cooper

Deputy Chairman
1 August 2008



B. G. Gibson

Commissioner
1 August 2008



S. D. Lutze

Chief Financial Officer
1 August 2008

INCOME STATEMENT

FOR THE YEAR ENDED 30 JUNE 2008

Income	Notes	2008 \$'000	2007 \$'000
Revenue			
Revenues from Government	3A	282,218	244,058
Sale of services	3B	4,370	4,144
Interest	3C	6	5,457
Royalties	3D	325	360
Other revenues	3E	4,944	3,833
Total revenue		291,863	257,852
Gains			
Net gains from sale of assets	3F	–	2
Other gains	3G	126	–
Total gains		126	2
Total income	35B	291,989	257,854
Expenses			
Employee benefits	4A	164,676	147,734
Suppliers	4B	92,930	90,787
Depreciation and amortisation	4C	15,554	16,568
Finance costs	4D	306	292
Write-down of assets	4E	334	329
Net losses from sale of assets	4F	6	–
Total expenses		273,806	255,710
Surplus¹		18,183	2,144

1 The surplus for 2007–08 results from changes to the timing of expenditure for a major IT project. Revenue from Government received in 2007–08 to fund this initiative will now be utilised in future financial years. The forecast completion date remains unchanged.

The above statement should be read in conjunction with the accompanying notes.

BALANCE SHEET

AS AT 30 JUNE 2008

Assets	Notes	2008 \$'000	2007 \$'000
Financial assets			
Cash and cash equivalents	5A	8,415	51,660
Trade and other receivables	5B	115,660	5,703
Total financial assets		124,075	57,363
Non-financial assets			
Leasehold improvements	6A	24,303	26,851
Plant and equipment	6B	6,792	9,414
Intangibles	6C	18,742	13,505
Other non-financial assets	6D	2,686	2,010
Total non-financial assets		52,523	51,780
Total assets		176,598	109,143
Liabilities			
Payables			
Suppliers	7A	20,678	22,070
Other payables	7B	24,996	23,660
Total payables		45,674	45,730
Interest bearing liabilities			
Leases	8A	188	882
Total interest bearing liabilities		188	882
Provisions			
Employee provisions	9A	43,636	37,005
Other provisions	9B	11,150	4,218
Total provisions		54,786	41,223
Total liabilities		100,648	87,835
Net assets		75,950	21,308
Equity			
Contributed equity		59,354	20,596
Reserves		8,900	11,199
Accumulated surplus/(deficit)		7,696	(10,487)
Total equity		75,950	21,308
Current assets		126,761	59,373
Non-current assets		49,837	49,770
Current liabilities		77,784	67,034
Non-current liabilities		22,864	20,801

The above balance sheet should be read in conjunction with the accompanying notes.

STATEMENT OF CHANGES IN EQUITY

FOR THE YEAR ENDED 30 JUNE 2008

	Notes	Accumulated surplus/(deficit)		Asset revaluation reserves		Contributed equity		Total equity	
		2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Opening balance		(10,487)	(12,631)	11,199	5,254	20,596	14,082	21,308	6,705
<i>Income and expense</i>									
Revaluation								–	–
Leasehold improvements ¹	6E	–	–	198	5,945	–	–	198	5,945
Restoration obligations ¹	9B	–	–	(2,497)	–	–	–	(2,497)	–
Surplus		18,183	2,144	–	–	–	–	18,183	2,144
<i>Total income and expenses</i>		18,183	2,144	(2,299)	5,945	–	–	15,884	8,089
<i>Contributions by owners</i>									
Appropriations – contributed equity		–	–	–	–	38,758	6,514	38,758	6,514
Closing balance		7,696	(10,487)	8,900	11,199	59,354	20,596	75,950	21,308

1 On 31 May 2008 ASIC re-assessed the future cost to make good its leased premises. The increase in restoration obligation has been debited directly to the asset revaluation reserve as it reverses a previous credit to the reserve in respect of the leasehold improvements class of assets. The increase in depreciated replacement cost of leasehold improvements has also been credited directly to the asset revaluation reserve.

The above statement should be read in conjunction with the accompanying notes.

CASH FLOW STATEMENT

FOR THE YEAR ENDED 30 JUNE 2008

		2008 \$'000	2007 \$'000
Operating activities	Notes		
Cash received			
Appropriations		245,376	251,331
Services		4,761	5,295
Interest		6	5,542
Net GST received		8,996	9,495
Other cash received		5,946	3,700
Total cash received		265,085	275,363
Cash used			
Employees		154,999	144,274
Suppliers		102,878	89,676
Finance costs		40	93
Return of ESA court costs recovered to Government		171	–
Transfer to the Official Public Account ¹	5A	45,206	–
Return of appropriation to Government	28A	–	9,500
Total cash used		303,294	243,543
Net cash from / (used by) operating activities	10	(38,209)	31,820
Investing activities			
Cash received			
Proceeds from sales of leasehold improvements, plant and equipment	3F, 4F	–	20
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles	6E	17,732	21,381
Net cash used by investing activities		(17,732)	(21,361)
Financing activities			
Cash received			
Appropriations – contributed equity		13,390	6,514
Cash used			
Repayment of finance lease principal		694	886
Net cash from financing activities		12,696	5,628
Net increase / (decrease) in cash held		(43,245)	16,087
Cash and cash equivalents at the beginning of the reporting period		51,660	35,573
Cash and cash equivalents at the end of the reporting period	5A	8,415	51,660

1 On 3 July 2007 ASIC transferred \$45.2m to the Official Public Account. This amount is recognised in the balance of 'Appropriations receivable' and is available to ASIC on demand (Note 5A refers).

The above statement should be read in conjunction with the accompanying notes.

SCHEDULE OF COMMITMENTS

AS AT 30 JUNE 2008

	2008 \$'000	2007 \$'000
By type		
Commitments payable		
Capital commitments		
Plant and equipment ¹	3,874	1,982
Intangibles	1,919	–
Total capital commitments	5,793	1,982
Other commitments		
Operating leases ²	93,492	144,124
Other commitments (goods and services)	17,942	2,374
Total other commitments	111,434	146,498
Less: commitments receivable		
GST recoverable on commitments	10,657	13,498
Total commitments receivable	10,657	13,498
Net commitments by type	106,570	134,982
By maturity		
Commitments payable		
Capital commitments		
One year or less	5,793	1,982
Total capital commitments	5,793	1,982
Operating lease commitments		
One year or less	18,265	23,246
From one to five years	43,946	67,769
Over five years	31,281	53,109
Total operating lease commitments	93,492	144,124
Other commitments (goods and services)		
One year or less	17,919	2,374
From one to five years	23	–
Total other commitments	17,942	2,374
Less: commitments receivable		
GST recoverable on commitments		
One year or less	3,816	2,510
From one to five years	3,997	6,160
Over five years	2,844	4,828
Total operating lease income	10,657	13,498
Net commitments by maturity	106,570	134,982

1 Outstanding contractual payments for purchases of plant and equipment.

2 Operating leases included are effectively non-cancellable and comprise:

Nature of lease

Leases for office accommodation
Motor vehicles – senior executives
Office equipment

General description of leasing arrangement

Subject to fixed increases and annual or bi-annual rent reviews.
No contingent rentals exist. There are no purchase options available to ASIC.
No contingent rentals exist. There are no purchase options available to ASIC.

Commitments are GST inclusive where relevant.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF CONTINGENCIES

AS AT 30 JUNE 2008

	Note	2008 \$'000	2007 \$'000
Contingent assets			
Contingent receivables			
Balance from previous period		4,263	1,457
<i>Adjustments to prior period contingent receivables:</i>			
Assets recognised		(773)	(1,457)
Estimates not realisable		(1,310)	–
Revisions to estimates		51	–
New contingent receivables		1,480	4,263
Total contingent assets	11	3,711	4,263

Contingent liabilities

There were no quantifiable contingent liabilities as at 30 June 2008 (2007: nil).

Details of all contingent liabilities and assets, including those not included above because they cannot be quantified, are disclosed in Note 11: Contingent liabilities and assets.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF ADMINISTERED ITEMS FOR THE YEAR ENDED 30 JUNE 2008

Income administered on behalf of Government	Note	2008 \$'000	2007 \$'000
Revenue			
Non-taxation revenue			
Corporations Act fees and fines ¹	18A	544,524	519,030
Banking Act unclaimed monies ²	18A	39,457	34,359
Life Insurance Act unclaimed monies ³	18A	5,849	4,914
Interest	18B	–	155
Total revenues administered on behalf of Government		589,830	558,458
Gains			
Other gains	18C	25	31
Total income administered on behalf of Government		589,855	558,489
Expenses administered on behalf of government			
Suppliers ⁴	19A	966	1,563
Write-down of assets	19B	22,506	22,427
Other expenses	19C	29,445	26,259
Total expenses administered on behalf of Government	22	52,917	50,249

ASIC's functions in administering revenues and expenses on behalf of the Government are described below:

- 1 ASIC collects and administers revenue under the *Corporations Act 2001* and prescribed fees set by the *Corporations (Fees) Regulations 2001*. The revenues from these fees are not available to ASIC and are remitted to the Official Public Account (OPA).
- 2 ASIC has responsibility for the administration of unclaimed monies received from banking and deposit-taking institutions. Monies received from banking and deposit-taking institution accounts that remain inactive for seven years are transferred to the Commonwealth, and are deposited into the OPA.
- 3 ASIC also has responsibility for the administration of unclaimed monies received from life insurance institutions and friendly societies. Monies received in respect of matured life insurance policies that have not been claimed for more than seven years are transferred to the Commonwealth and are deposited into the OPA.
- 4 On behalf of the Government, ASIC administers payments to registered insolvency practitioners. These payments are used to fund preliminary investigations of suspected breaches of directors' duties and fraudulent misconduct. The outcomes of the findings made by insolvency practitioners are reported to ASIC.

Note: Intra Government transactions have been omitted.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF ADMINISTERED ITEMS

AS AT 30 JUNE 2008

		2008 \$'000	2007 \$'000
Assets administered on behalf of Government	Note		
Financial assets (current)			
Cash and cash equivalents	20A	3,064	2,506
Receivables	20B	83,059	76,877
<i>Total assets administered on behalf of Government</i>		86,123	79,383
Liabilities administered on behalf of Government			
Payables (current)			
Suppliers	21A	4,843	4,614
<i>Administered assets less administered liabilities</i>	22	81,280	74,769

Note: Intra government transactions have been omitted.

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF ADMINISTERED ITEMS FOR THE YEAR ENDED 30 JUNE 2008

Administered cash flows	Notes	2008 \$'000	2007 \$'000
Operating activities			
Cash received			
Corporations Act fees and charges		516,394	492,649
Banking Act unclaimed monies		39,457	34,359
Life Insurance Act unclaimed monies		5,849	4,914
Interest		–	155
Net GST received		116	84
Total cash received		561,816	532,161
Cash used			
Refunds paid to:			
Deposit-taking institution account holders		24,315	18,639
Life insurance policy holders		5,105	7,589
Suppliers		1,411	925
Total cash used		30,831	27,153
Net cash from operating activities	23	530,985	505,008
Net increase in cash held		530,985	505,008
Cash and cash equivalents at the beginning of the reporting period		2,506	2,962
Cash from Official Public Account for:			
– Appropriations	22	35,028	30,689
		37,534	33,651
Cash to Official Public Account for:			
– Corporations Act fees and charges		520,149	496,493
– Banking Act unclaimed monies		39,457	34,359
– Life Insurance Act unclaimed monies		5,849	4,914
– Return of 2005–06 unspent appropriation		–	387
	22	565,455	536,153
Cash and cash equivalents at end of reporting period	20A	3,064	2,506

The above schedule should be read in conjunction with the accompanying notes.

SCHEDULE OF ADMINISTERED ITEMS

AS AT 30 JUNE 2008

Administered commitments

As at 30 June 2008 ASIC has administered commitments payable of \$0.8m (2007: nil). All administered commitments payable are for goods and services and are due within 1 year.

As at 30 June 2008 ASIC had administered commitments receivable of \$0.07m (2007: nil). All administered commitments receivable are for GST refundable and are due within 1 year.

Administered contingent assets

There were no administered contingent assets as at 30 June 2008 (2007: nil).

	2008 \$'000	2007 \$'000
Administered contingent liabilities		
Payables – Refunds to claimants		
Banking Act administration ¹	36,962	35,498
Life Insurance Act unclaimed monies ²	7,345	3,391
	44,307	38,889

1 Banking Act administration

Monies from bank and deposit-taking institution accounts inactive for seven or more years are transferred to the Commonwealth and are deposited into the OPA. The contingent liability disclosed above represents an estimate of future claims for repayment, where the validity of the claim has been established by the relevant institution.

The estimate of future claims for repayment at 30 June 2008 was determined using a methodology provided by an independent actuary (Russell Investment Group).

2 Life Insurance Act administration

Monies in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the OPA. The contingent liability disclosed above represents an estimate of the future claims for repayment, where the validity of the claim has been established by the relevant institution.

The estimate of future claims for repayment at 30 June 2008 was determined using a methodology provided by an independent actuary (Russell Investment Group).

The above schedule should be read in conjunction with the accompanying notes.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

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NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 1: Summary of significant accounting policies

1.1 Objectives of the Australian Securities and Investments Commission

The Australian Securities and Investments Commission (ASIC) is an independent Commonwealth Government body operating under the *Australian Securities and Investments Commission Act 2001* (ASIC Act) to administer the *Corporations Act 2001* (Corporations Act), and other legislation, throughout Australia.

ASIC's objectives include the promotion of the confident and informed participation of investors and consumers in the financial system.

ASIC also collects and administers revenue under the Corporations Act and prescribed fees set by the *Corporations (Fees) Regulations 2001* (Corporations (Fees) Regulations) (Note 1.5 refers).

On 1 July 2007, ASIC became an agency prescribed under Schedule 1, Part 1 of the *Financial Management and Accountability Regulations 1997* (FMA Regulations). Prior to this ASIC was a prescribed agency under the *Commonwealth Authorities and Companies Act 1997* in respect of its departmental functions and Schedule 1, Part 2 of the FMA Regulations in respect of its administered functions.

1.2 Basis of preparation of the financial report

The Financial Statements and Notes are required by section 49 of the *Financial Management and Accountability Act 1997* (FMA Act) and are a general purpose financial report.

The continued existence of ASIC in its present form and with its present programs is dependent on Government policy and on continuing appropriations by Parliament for ASIC's administration and programs.

The Financial Statements and Notes have been prepared in accordance with the:

- Finance Minister's Orders (FMOs) for reporting periods ending on or after 1 July 2007, and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial report has been prepared on an accrual basis and is in accordance with the historical cost convention, except for certain assets which, as noted, are at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial report is presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the Balance Sheet when and only when it is probable that future economic benefits will flow to ASIC and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under agreements equally proportionately unperformed are not recognised unless required by an accounting standard. Liabilities and assets that are not recognised are reported in the Schedule of Commitments and the Schedule of Contingencies (other than unquantifiable contingencies, which are reported at Note 11).

Unless alternative treatment is specifically required by an accounting standard, revenues and expenses are recognised in the Income Statement when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Refer to Note 1.5 for the basis of preparation of administered items.

Note 1: Summary of significant accounting policies continued ...

1.3 Significant accounting judgements and estimates

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to carrying amounts of assets and liabilities within the next accounting period.

1.4 Statement of compliance

Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard.

The following new standards are applicable to the current reporting period:

Financial instruments disclosure

AASB 7 *Financial Instruments: Disclosures* is effective for reporting periods beginning on or after 1 January 2007 (the 2007–08 financial year) and amends the disclosure requirements for financial instruments. In general AASB 7 requires greater disclosure than that previously required. Associated with the introduction of AASB 7 a number of accounting standards were amended to reference the new standard or remove the present disclosure requirements through 2005–10 Amendments to Australian Accounting Standards [AASB 132, AASB 101, AASB 114, AASB 117, AASB 133, AASB 139, AASB 1, AASB 4, AASB 1023 & AASB 1038]. These changes have no financial impact but effect the disclosure of financial instruments.

The following new standards (including reissued standards), amendments to standards, erratum or interpretations for the current financial year have no material financial impact on ASIC:

AASB 101 *Presentation of Financial Statements* (reissued October 2006)

AASB 1048 *Interpretation and Application of Standards* (reissued September 2007)

2007–4 *Amendments to Australian Accounting Standards arising from ED 151 and Other Amendments and Erratum: Proportionate Consolidation*

2007–5 *Amendments to Australian Accounting Standard – Inventories Held for Distribution by Not-for-Profit Entities* [AASB 102]

2007–7 *Amendments to Australian Accounting Standards* [AASB 1, AASB 2, AASB 4, AASB 5, AASB 107 & AASB 128]

AASB Interpretation 10 *Interim Financial Reporting and Impairment*

AASB Interpretation 11 AASB 2 – *Group and Treasury Share Transactions* and 2007–1 *Amendments to Australian Accounting Standards arising from AASB Interpretation 11*

AASB Interpretation 1003 *Australian Petroleum Resource Rent Tax*.

Future Australian Accounting Standard requirements

The following new standards, amendments to standards or interpretations have been issued by the Australian Accounting Standards Board but are effective for future reporting periods. It is estimated that adopting these pronouncements when effective will have no material financial impact on future reporting periods:

AASB 3 *Business Combinations*

AASB 8 *Operating Segments* and 2007–3 *Amendments to Australian Accounting Standards arising from AASB 8*

AASB 101 *Presentation of Financial Statements* (reissued September 2007) and 2007–8 *Amendments to Australian Accounting Standards arising from AASB 101*

AASB 123 *Borrowing Costs* and 2007–6 *Amendments to Australian Accounting Standards arising from AASB 123*

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 1: Summary of significant accounting policies continued ...

AASB 127 *Consolidated and Separate Financial Statements* and 2008–3 *Amendments to Australian Accounting Standards from AASB 3 and AASB 127* [AASBs 1, 2, 4, 5, 7, 101, 107, 112, 114, 116, 121, 128, 131, 132, 133, 134, 136, 137, 138 & 139 and Interpretations 9 & 107]

AASB 1004 *Contributions*

AASB 1050 *Administered Items* and 2007–9 *Amendments to Australian Accounting Standards arising from the Review of AASs 27, 29 and 31* [AASB 3, AASB 5, AASB 8, AASB 101, AASB 114, AASB 116, AASB 127 & AASB 137]

AASB 1051 *Land Under Roads*

AASB 1052 *Disaggregated Disclosures*

2008–1 *Amendments to Australian Accounting Standard – Share-based Payments: Vesting Conditions and Cancellations* [AASB 2]

2008–2 *Amendments to Australian Accounting Standards – Puttable Financial Instruments and Obligations arising on Liquidation* [AASB 7, AASB 101, AASB 132, AASB 139 & Interpretation 2]

AASB Interpretation 1 *Changes in Existing Decommissioning, Restoration and Similar Liabilities*

AASB Interpretation 4 *Determining whether an Arrangement contains a Lease*

AASB Interpretation 12 *Service Concession Arrangements* and 2007–2 *Amendments to Australian Accounting Standards arising from Interpretation 12*

AASB Interpretation 13 *Customer Loyalty Programmes*

AASB Interpretation 14 *AASB 119 – The Limit on a Defined Benefit Asset, Minimum Funding Requirements and their Interaction*

AASB Interpretation 129 *Service Concession Arrangements: Disclosures*

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities*.

Other

The following standards and interpretations have been issued but are not applicable to the operations of ASIC:

AASB 1049 *Financial Reporting of General Government Sectors by Governments*

2008–4 *Amendments to Australian Accounting Standard – Key Management Personnel Disclosures by Disclosing Entities* [AASB 124]

1.5 Reporting of administered activities

ASIC collects and administers revenue under the Corporations Act and prescribed fees set by the Corporations (Fees) Regulations. The revenues from these fees are not available to ASIC and are remitted to the Official Public Account (OPA). Transactions and balances relating to these fees are reported as administered items.

Administered revenues, expenses, assets, liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for ASIC items, except where stated in Note 1.20.

Administered items are distinguished by shading in these financial statements.

1.6 Revenue

Revenues from Government

Amounts appropriated for departmental outputs appropriations for the year (adjusted for any formal additions and reductions) are recognised as revenue, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

Note 1: Summary of significant accounting policies continued ...

Resources received free of charge

Resources received free of charge are recognised as gains when and only when a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Other types of revenue

Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. Revenue is recognised when:

- the amount of revenue, stage of completion and transaction costs incurred can be reliably measured, and
- the probable economic benefits with the transaction will flow to ASIC.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any provision for bad and doubtful debts. Collectability of debts is reviewed at balance date. Provisions are made when collectability of the debt is no longer probable.

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

1.7 Gains

Net gains from disposal of assets

Gains from disposal of non-current assets are recognised when control of the asset has passed to the buyer.

1.8 Transactions with the Government as owner

Equity injections

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in contributed equity in that year.

1.9 Employee benefits

Liabilities for services rendered by employees are recognised at the reporting date to the extent that they have not been settled.

Liabilities for 'short-term employee benefits' (as defined in AASB 119) and termination benefits due within twelve months of balance date are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

All other employee benefit liabilities are measured at the present value of the estimated future cash outflows to be made in respect of services provided by employees up to the reporting date.

Leave

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of ASIC is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration, including ASIC's employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

Actuarial reviews of long service leave are undertaken on a five yearly basis. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

Note 1: Summary of significant accounting policies continued ...

Separation and redundancy

Provision is made for separation and redundancy benefit payments when ASIC has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.

Superannuation

The majority of employees of ASIC are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS Accumulation Plan (PSSap).

The CSS and PSS are defined benefit schemes of the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

There are a small number of employees covered under state government and private superannuation schemes. The majority of employees employed in the state government superannuation scheme were originally employed by the various state governments and were transferred to ASIC at its inception in 1989.

ASIC makes employer contributions to the Australian Government and the various state superannuation schemes at rates determined by an actuary to be sufficient to meet the cost to the Government of the superannuation entitlements of ASIC's employees. ASIC expenses contributions to defined benefit and defined contribution plans. The liability for superannuation recognised as at balance date represents the outstanding contributions payable as at 30 June.

1.10 Leases

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased non-current assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where a non-current asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the leased property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are depreciated over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight line basis which is representative of the pattern of benefits derived from the leased assets.

1.11 Finance costs

All finance costs are expensed as incurred.

1.12 Cash and cash equivalents

Cash includes notes and coins on hand and any deposits held at call with a bank or financial institution. Cash equivalents are bank instruments readily convertible to cash (e.g. negotiable certificates of deposit). Cash is recognised at its nominal value.

Note 1: Summary of significant accounting policies continued ...

1.13 Financial assets

ASIC's financial assets are classified as 'loans and receivables' for the purposes of AASB139 *Financial Instruments: Recognition and Measurement*.

Financial assets are recognised and derecognised at transaction date.

Effective interest method

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis.

Loans and receivables

Trade receivables and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. They are included in current assets, except for maturities greater than 12 months after the balance sheet date. These are classified as non-current assets. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

Impairment of financial assets

Financial assets are assessed for impairment at each balance date.

Financial assets held at amortised cost – if there is objective evidence that an impairment loss has been incurred for 'loans and receivables' financial assets, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Income Statement.

1.14 Financial liabilities

Financial liabilities are classified as 'other financial liabilities' for the purposes of AASB139 *Financial Instruments: Recognition and Measurement*.

Financial liabilities are recognised and derecognised at transaction date.

Other financial liabilities

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

1.15 Contingent liabilities and contingent assets

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset, or represent an existing liability or asset in respect of which settlement is not probable or the amount cannot be reliably measured. Contingent assets are reported when settlement is probable but not virtually certain. Contingent liabilities are recognised when settlement is greater than remote.

1.16 Acquisition of assets

Assets are recorded at cost on acquisition providing the asset recognition threshold is met (Note 1.17 refers). The exception to this rule is assets acquired at no cost, or for nominal consideration, which are initially recognised as assets and revenues at their fair value at the date of acquisition.

Note 1: Summary of significant accounting policies continued ...

1.17 Leasehold improvements, plant and equipment

Asset recognition threshold

Purchases of leasehold improvements, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located, if it is contractually required. 'Make good' provisions in property leases are accounted for on this basis. These costs are included in the value of ASIC's leasehold improvements with a corresponding restoration provision taken up.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Plant and equipment	Market selling price

Following initial recognition at cost, leasehold improvements, plant and equipment are carried at fair value less accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised through the Income Statement. Revaluation decrements for a class of assets are recognised directly through the Income Statement except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

Depreciation

Depreciable leasehold improvements, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to ASIC. Computer equipment is depreciated using the declining balance method while all other plant and equipment and leasehold improvements are depreciated using the straight-line method.

Depreciation rates (useful lives), residual values and depreciation methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2008	2007
Leasehold improvements	Lease term	Lease term
Computer equipment	1 to 5 years	1 to 5 years
Plant and equipment (owned)	2 to 95 years	2 to 10 years
Plant and equipment (leased)	2 to 5 years	2 to 10 years

Note 1: Summary of significant accounting policies continued ...

Impairment

Leasehold improvements, plant and equipment are assessed for impairment at the end of each financial year. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if ASIC were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

1.18 Intangibles

ASIC's intangibles primarily comprise internally developed software for internal use. As there is no active market for the majority of ASIC's software assets these assets are carried at cost less accumulated amortisation and impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of ASIC's software is 2 to 5 years (2007: 2 to 5 years).

All software assets are assessed for indications of impairment at the end of each financial year.

1.19 Taxation

ASIC is exempt from all forms of taxation except fringe benefits tax (FBT) and the goods and services tax (GST).

Revenues, expenses, assets and liabilities are recognised net of GST except for receivables and payables and where the amount of GST incurred is not recoverable from the Australian Taxation Office (ATO).

1.20 Reporting of administered activities

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards and Interpretations.

Administered cash transfers to and from the Official Public Account (OPA)

Revenue collected by ASIC for use by the Government rather than ASIC is administered revenue. Collections are transferred to the OPA maintained by the Department of Finance and Deregulation. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by ASIC on behalf of the Government and reported as such in the Statement of Cash Flows in the Schedule of Administered Items and in the administered reconciliation table in Note 22. Accordingly the Schedule of Administered Items largely reflects the Government's transactions, through ASIC, with parties outside the Government.

Note 1: Summary of significant accounting policies continued ...

Revenue

All administered revenues are revenues relating to the course of ordinary activities performed by ASIC on behalf of the Australian Government.

Administered revenue is generated from annual review fees, other fees and search products prescribed under the Corporations (Fees) Regulations. Administered fee revenue is recognised on an accruals basis when:

- the client or the client group can be identified in a reliable manner
- an amount of prescribed fee or other statutory charge is payable by the client or client group under legislative provisions, and
- the amount of the prescribed fee or other statutory charge payable by the client or the client group can be reliably measured.

Administered revenue is recognised at its nominal amount due and an expense is recognised for impaired debts. Collectability of debts is reviewed at balance date. Allowances are made when collection of the debt is no longer probable.

Receivables

Administered revenue is recognised at its nominal amount due less an impairment allowance. The Finance Minister has determined that statutory receivables are not financial instruments and accordingly ASIC has assessed administered receivables for impairment under AASB 136 *Impairment of Assets* (FMO 31.1).

The impairment allowance is raised against receivables for any doubtful debts and any probable credit amendments, and is based on a review of outstanding debts at balance date. This includes an examination of individual large debts and disputed amounts with reference to historic collection patterns.

The impairment allowance expense is the result of estimation techniques to determine an estimate of current Corporations Act debts which are unlikely to be collected in future. Large debt amounts are individually reviewed while the provision of the remaining debts is estimated using sampling methodologies.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off.

Unclaimed monies – administered items

Banking Act administration

ASIC is responsible for the administration of unclaimed monies from banking and deposit taking institutions.

In accordance with the *Banking Act 1959* (Banking Act) monies from bank and deposit taking institution accounts that are inactive for seven or more years are transferred to the Commonwealth and are deposited into the OPA. Refunds are paid to successful claimants out of the OPA.

Life Insurance Act administration

ASIC is responsible for the administration of unclaimed monies from life insurance institutions.

In accordance with the *Life Insurance Act 1995* (Life Insurance Act) monies in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth from life insurance companies and friendly societies, and are deposited into the OPA. Refunds are paid to successful claimants out of the OPA.

Note 1: Summary of significant accounting policies continued ...

1.21 Expenditure of boards and tribunal

Pursuant to Parts 11 and 12 of the ASIC Act and the *Superannuation (Resolution of Complaints) Act 1993* ASIC is required to support various boards and a tribunal to promote activities that enable ASIC to attain its aims. The boards are the Australian Accounting Standards Board and the Companies Auditors and Liquidators Disciplinary Board. The tribunal is the Superannuation Complaints Tribunal. Employee and administrative expenditure incurred on behalf of these boards and the tribunal are included in the Income Statement of ASIC (Note 30 refers).

1.22 Changes in accounting policy

Changes in accounting policy have been identified in this note under their appropriate headings.

1.23 Reporting by outcomes

ASIC's financial result reported in the context of the Government's outcomes and outputs framework is disclosed in Note 35.

Any intra government costs included in arriving at the amount shown as 'net contribution of outcome' are eliminated in calculating the actual budget outcome for the Government overall (Note 35 refers).

1.24 Comparative figures

Where necessary, comparative figures have been adjusted to conform with changes in presentation in this financial report.

1.25 Rounding

Amounts have been rounded to the nearest \$1000 except in relation to the following:

- remuneration of Commissioners
- remuneration of executive officers
- remuneration of auditors, and
- administered fee write-offs and waivers.

1.26 Insurance

ASIC has insured for risks through Comcover, the Government's insurable risk managed fund. Workers' compensation is insured through Comcare Australia.

Note 2: Events after the balance sheet date

There were no events occurring after balance date that had a material effect on the Financial Statements.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 3: Income

Revenue	2008 \$'000	2007 \$'000
Note 3A: Revenues from Government		
Appropriation:		
Departmental outputs	260,376	227,070
Departmental Special Account	21,842	16,988
Total revenues from Government	282,218	244,058
Note 3B: Sale of services		
Sale of services to related entities	1,590	1,344
Sale of services to external entities	2,780	2,800
Total sale of services	4,370	4,144
Note 3C: Interest		
Deposits	6	5,457
Total interest	6	5,457

On 1 July 2007 ASIC became an agency prescribed under Schedule 1, Part 1 of the *Financial Management and Accountability Regulations 1997* (a 'prescribed agency'). In accordance with Schedule 1, Part 1, Divisions 1 and 2 of the *Financial Management and Accountability (Finance Minister to Chief Executive) Delegation 2007 (No.2)* ASIC's bank balances are swept to the Official Public Account on a daily basis and interest is earned by the Commonwealth. ASIC received an increase in appropriation to compensate for this loss of revenue in the 2006–07 Budget.

Note 3D: Royalties

ASIC publications	325	360
Total royalties	325	360

Note 3E: Other revenues

Cost recoveries ¹	3,160	2,193
Receipt from the Companies and Unclaimed Moneys Special Account ²	504	–
Professional and witness fees	335	220
Recovery of property rental and outgoings relating to prior year	148	–
AusAID revenue ³	585	948
Insurance recoveries	–	91
Miscellaneous	212	381
Total other revenue	4,944	3,833

1 Amounts recovered by ASIC for court costs, investigations, professional fees, legal costs and prosecution disbursements.

2 Project costs recovered from the Companies and Unclaimed Moneys Special Account on approval of the Minister.

3 Amount received by ASIC in respect of its participation in AusAID projects.

Note 3: Income continued ...

Gains	Note	2008 \$'000	2007 \$'000
Note 3F: Net gains from sale of assets			
Plant and equipment			
Proceeds from sale		–	20
Less: carrying value of assets sold		–	18
Net gains from sale of assets		–	2
Note 3G: Other gains			
Resources received free of charge	15	126	–
Total other gains		126	–

As a prescribed agency ASIC receives audit services from the Australian National Audit Office free of charge. The fair value of that service is \$125,645 for the reporting period.

Note 4: Expenses

Note 4A: Employee benefits

Salaries	124,580	116,563
Superannuation ¹	20,083	18,004
Leave and other entitlements	16,960	12,842
Separation and redundancies ²	3,053	325
Total employee benefits	164,676	147,734

1 Contributions to superannuation schemes are at rates calculated to cover existing and emerging obligations. The employer contribution rate for the Commonwealth Superannuation Scheme was 30.8% (2007: 28.4%), the Public Sector Superannuation Scheme was 13.8% (2007: 13.3%), the PSS Accumulation Scheme was 15.4% (2007: 15.4%), and the superannuation productivity benefit was 2.0% to 3.0% (2007: 2.0% to 3.0%).

2 Separation and redundancies are generally calculated on the basis of 2 weeks pay for every year of service for each employee with a minimum of 4 weeks and a maximum of 48 weeks.

Note 4B: Suppliers

Goods from related entities	13	8
Goods from external entities	2,892	3,231
Services from related entities	6,331	6,989
Services from external entities	65,920	63,218
Operating lease rentals:		
Minimum lease payments	16,528	16,045
Workers compensation premiums	910	838
Fringe benefits tax	336	458
Total suppliers expenses	92,930	90,787

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 4: Expenses continued ...

	Notes	2008 \$'000	2007 \$'000
Note 4C: Depreciation and amortisation			
Depreciation:			
Leasehold improvements		5,372	4,539
Plant and equipment		3,844	4,753
Total depreciation		9,216	9,292
Amortisation:			
Intangibles:			
Computer software		6,200	6,971
Assets held under finance leases		138	305
Total amortisation		6,338	7,276
Total depreciation and amortisation		15,554	16,568
Note 4D: Finance costs			
Finance leases		40	93
Unwinding of restoration provision discount	9B	266	199
Total finance costs		306	292
Note 4E: Write-down of assets			
Bad and doubtful debts expense	5B	148	135
Write-off of leasehold improvements, plant and equipment and intangibles		186	194
Total write-down of assets		334	329
Note 4F: Net losses from sale of assets			
Leasehold improvements, plant and equipment			
Carrying value of assets sold	6E	6	–
Less: proceeds from sale		–	–
Total net losses from sale of assets		6	–

Note 5: Financial assets

	Notes	2008 \$'000	2007 \$'000
Note 5A: Cash and cash equivalents			
Cash on hand or on deposit	28A	8,415	51,660
Total cash and cash equivalents	17	8,415	51,660

As a prescribed agency, ASIC is required to maintain cash at a working capital level agreed with the Department of Finance and Deregulation. On 3 July 2007 ASIC returned \$45.2m to the Official Public Account. This amount is recognised in the balance of 'Appropriations receivable' and is available to ASIC on demand (Note 5B refers).

Note 5B: Trade and other receivables

Goods and services		3,644	3,424
Appropriations receivable ¹	28A	110,235	851
Net GST receivable from the ATO		2,020	1,521
Total trade and other receivables (gross)		115,899	5,796
Less Allowance for doubtful debts:			
Goods and services		239	93
Total trade and other receivables (net)		115,660	5,703

All receivables are current.

1 The balance of Appropriations receivable at 30 June 2008 represents the balance of funds available to ASIC on demand in respect of departmental outputs, equity injections and the Enforcement Special Account.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008

Note 5: Financial assets continued ...

	2008 \$'000	2007 \$'000
Receivables are aged as follows:		
Not overdue	115,481	5,261
Overdue by:		
Less than 30 days	157	218
30 to 60 days	5	149
61 to 90 days	1	51
More than 90 days	255	117
Total receivables (gross)	115,899	5,796

The allowance for doubtful debts is aged as follows:

Overdue by:		
More than 90 days	239	93
Total allowance for doubtful debts	239	93

Reconciliation of the movement in the allowance for doubtful debts

Opening balance 1 July	93	78
Amounts written off	(2)	(120)
Increase in allowance for doubtful debts recognised in net surplus	148	135
Closing balance	239	93

Note 6: Non-financial assets

	2008 \$'000	2007 \$'000
Note 6A: Leasehold improvements		
Leasehold improvements		
– work in progress	1,148	2,622
– gross carrying value (at fair value)	32,071	28,604
– accumulated depreciation	(8,916)	(4,375)
Total leasehold improvements (non-current)	24,303	26,851

All revaluations are conducted in accordance with the revaluation policy stated at Note 1.17. In 2006–07, Simon O'Leary AAPI MSAA, an independent valuer from the Australian Valuation Office, conducted a revaluation of ASIC's leasehold improvements.

As a result of the revaluation, an increment of \$5.945m for leasehold improvements was credited to the asset revaluation reserve and included in the equity section of the Balance Sheet in 2006–07.

The carrying value of leasehold improvements was reviewed at 30 June 2008. The review confirmed there was no material difference between the fair value and the carrying value of leasehold improvement assets.

No indicators of impairment were found for leasehold improvements at 30 June 2008.

Note 6B: Plant and equipment

Plant and equipment:		
– gross carrying value (at fair value)	22,474	22,425
– accumulated depreciation	(15,682)	(13,011)
Total plant and equipment (non-current)	6,792	9,414

An independent valuation was undertaken by the Australian Valuation Office as at 30 April 2008.

The valuation confirmed there was no material difference between the fair value and the carrying value of plant and equipment assets.

No indicators of impairment were found for plant and equipment at 30 June 2008.

Note 6C: Intangibles – computer software

<i>Internally developed</i>		
– work in progress	6,047	2,714
– in use	34,098	28,456
– accumulated amortisation	(24,956)	(20,402)
	15,189	10,768
<i>Purchased</i>		
– in use	13,911	11,663
– accumulated amortisation	(10,358)	(8,926)
	3,553	2,737
Total intangibles (non-current)	18,742	13,505

No indicators of impairment were found for intangible assets at 30 June 2008.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 6: Non-financial assets continued ...

	2008 \$'000	2007 \$'000
Note 6D: Other non-financial assets		
Prepayments	2,686	2,010
Total other non-financial assets	2,686	2,010

All other non-financial assets are current assets.

Note 6E: Analysis of leasehold improvements, plant and equipment and intangibles

TABLE A – Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2007–08)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2007					
Gross book value	31,226	22,425	31,170	11,663	96,484
Accumulated depreciation/ amortisation	(4,375)	(13,011)	(20,402)	(8,926)	(46,714)
Net book value 1 July 2007	26,851	9,414	10,768	2,737	49,770
Additions:					
by purchase	2,626	1,477	–	2,536	6,639
internally developed	–	–	8,976	–	8,976
Total additions¹	2,626	1,477	8,976	2,536	15,615
Revaluations	198	–	–	–	198
Depreciation/amortisation expense	(5,372)	(3,982)	(4,555)	(1,645)	(15,554)
Write-offs	–	(111)	–	(75)	(186)
Disposals:					
Other disposals	–	(6)	–	–	(6)
Net book value 30 June 2008	24,303	6,792	15,189	3,553	49,837
Net book value as of 30 June 2008 represented by:					
Gross book value	33,219	22,474	40,145	13,911	109,749
Accumulated depreciation/ amortisation	(8,916)	(15,682)	(24,956)	(10,358)	(59,912)
	24,303	6,792	15,189	3,553	49,837

¹ Total purchases of \$15,615,052 comprises cash purchases of \$17,732,267 plus accrued capital expenditure and restoration costs of \$211,792 less accrued capital expenditure in 2006–07 of \$2,329,007.

Note 6: Non-financial assets continued ...

Note 6E: Analysis of leasehold improvements, plant and equipment and intangibles continued

TABLE B – Reconciliation of the opening and closing balances of leasehold improvements, plant and equipment and intangibles (2006–07)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2006					
Gross book value	34,170	20,192	27,359	10,921	92,642
Accumulated depreciation/amortisation	(23,536)	(9,333)	(15,127)	(7,213)	(55,209)
Net book value 1 July 2006	10,634	10,859	12,232	3,708	37,433
Additions:					
by purchase	14,811	3,859	–	691	19,361
internally developed	–	–	3,811	–	3,811
Total additions¹	14,811	3,859	3,811	691	23,172
Revaluations	5,945	–	–	–	5,945
Reclassification	–	(34)	–	34	–
Depreciation/amortisation expense	(4,539)	(5,058)	(5,275)	(1,696)	(16,568)
Write-offs	–	(194)	–	–	(194)
Disposals:					
Other disposals	–	(18)	–	–	(18)
Net book value 30 June 2007	26,851	9,414	10,768	2,737	49,770
Net book value as of 30 June 2007 represented by:					
Gross book value	31,226	22,425	31,170	11,663	96,484
Accumulated depreciation/amortisation	(4,375)	(13,011)	(20,402)	(8,926)	(46,714)
	26,851	9,414	10,768	2,737	49,770

¹ Total purchases of \$23,172,444 comprises cash purchases of \$21,381,261 plus accrued capital expenditure and restoration costs of \$3,561,332 less accrued capital expenditure in 2005–06 of \$1,770,149.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 7: Payables

	Notes	2008 \$'000	2007 \$'000
Note 7A: Suppliers			
Trade creditors	17	20,678	22,070
Total suppliers payables		20,678	22,070

All suppliers payables are current.

Note 7B: Other payables

Unearned revenue – Government appropriations ¹		12,091	10,294
Other unearned revenue		793	1,383
Rent payable	17	4,690	4,049
Property lease incentives ²		7,422	7,934
Total other payables		24,996	23,660

Other payables are represented by:

Current		14,431	13,414
Non-current		10,565	10,246
Total other payables		24,996	23,660

1 Unearned revenue – Government appropriations represent appropriations for specific Government initiatives that have not been spent where the appropriation is conditional on any unspent balance being returned to Government.

2 Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2008. The amortisation of these amounts will be made over the life of the leases.

Note 8: Interest bearing liabilities

Note 8A: Leases

Finance leases	17	188	882
Total finance leases		188	882

Payable:

Within one year			
Minimum lease payments		191	732
Deduct: future finance charges		(3)	(40)
In one to five years			
Minimum lease payments		–	193
Deduct: future finance charges		–	(3)
Finance leases recognised on the balance sheet		188	882

Finance leases exist in relation to certain IT assets. The leases are non-cancellable and for fixed terms averaging three years, with a maximum of five years. The interest rate implicit in the leases averaged 5.3% (2007: 5.3%). The leased assets secure the lease liabilities.

Note 9: Provisions

	2008 \$'000	2007 \$'000
Note 9A: Employee provisions		
Salaries and bonuses	6,897	5,318
Annual leave entitlement	12,535	11,327
Long service leave entitlement ¹	24,002	20,234
Superannuation	202	126
Total employee provisions	43,636	37,005
Employee provisions are represented by:		
Current	37,104	30,422
Non-current	6,532	6,583
Total employee provisions	43,636	37,005

1 The liability for long service leave has been determined by reference to the work of an independent actuary following a review at 30 June 2008.

The classification of current includes amounts for which there is not an unconditional right of deferral of one year, hence in the case of employee provisions the above classification does not equal the amount expected to be settled within one year of reporting date. Employee provisions expected to be settled in one year are \$17,480,358 (2007: \$14,214,274), and in excess of one year \$26,155,110 (2007: \$22,790,510).

Note 9B: Other provisions

Restructuring obligations ¹	4,204	–
Restoration obligations – leased premises	6,946	4,218
Total other provisions	11,150	4,218
Other provisions are represented by:		
Current	5,383	436
Non-current	5,767	3,782
Total other provisions	11,150	4,218

1 On 8 May 2008 ASIC announced the completion of its Strategic Review. The provision for restructuring obligations includes costs directly associated with the restructure.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 9: Provisions continued ...

Note 9B: Other provisions continued

	2008 \$'000	2007 \$'000
<i>Reconciliation of the opening and closing balance of restructure provision</i>		
Carrying amount 1 July	–	–
Additional provisions made	4,204	–
Closing balance 30 June	4,204	–
<i>Reconciliation of the opening and closing balance of restoration provision</i>		
Carrying amount 1 July	4,218	3,913
Additional provisions made	61	1,510
Revalued amounts	2,497	–
Amounts used	(80)	(1,404)
Amounts reversed	(16)	–
Unwinding of discount or change in discount rate	266	199
Closing balance 30 June	6,946	4,218

ASIC currently has 15 agreements (2007: 16) for the leasing of premises which have provisions requiring ASIC to restore the premises to their original condition at the conclusion of the lease. ASIC has made a provision to reflect the present value of the 'make good' obligations.

Note 10: Cash flow reconciliation

Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement

Report cash and cash equivalents as per:

Cash Flow Statement	8,415	51,660
Balance Sheet	8,415	51,660

Reconciliation of operating result to net cash from operating activities:

Operating result	18,183	2,144
Depreciation/amortisation	15,554	16,568
Net write-down of non-financial assets	186	194
Net (gain)/loss on disposal of assets	6	(2)
(Increase) in net receivables ¹	(84,589)	(2,779)
(Increase)/decrease in prepayments	(676)	304
Increase in employee provisions	6,631	3,460
Increase/(decrease) in supplier payables	(1,392)	7,842
Increase in other payables	7,888	4,089
Net cash from/(used by) operating activities	(38,209)	31,820

1 In 2007–08 ASIC is required to maintain cash at a working capital level agreed with the Department of Finance and Deregulation. This has contributed to the increase in ASIC's net receivables from operating activities of \$82.8m.

Note 11: Contingent liabilities and assets

Quantifiable contingencies (ASIC departmental)

As at the date of this report, there are 21 matters for which ASIC has received an award of costs in its favour, and agreement with respect to the quantum payable to ASIC has not been reached. ASIC has estimated these matters represent a combined receivable of \$3.711m, which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

There are no quantifiable contingent liabilities as at 30 June 2008 (2007: nil).

Quantifiable contingencies (assets held in trust)

Companies Unclaimed Monies

Unclaimed monies held by ASIC, pursuant to Part 9.7 of the Corporations Act, that have not been claimed within six years are transferred to the Commonwealth and deposited into the Official Public Account. A contingent liability estimated to be \$895,000 (2007: \$486,552) represents an estimate of future claims for repayment from the Official Public Account. The estimate of future claims for repayment at 30 June 2008 was determined using a methodology provided by an independent actuary (Russell Investment Group).

Unquantifiable contingent liabilities

ASIC is party to many civil litigation matters arising out of its statutory duty to administer and enforce laws for which it is responsible. Also, like any corporate body, ASIC may from time to time be the subject of legal proceedings for damages brought against it, or may receive notice indicating that such proceedings may be brought. In either case ASIC, like any other party to civil litigation, may be required to pay the other party's costs if ASIC is unsuccessful.

Civil litigation brought, or threatened to be brought, against ASIC as a defendant

There are at the date of this report, three matters of this type where proceedings are current. In each of those matters, ASIC denies liability and is of the view that, save for having to pay legal fees and other out-of-pocket expenses, it is likely that ASIC will:

- (a) successfully defend the action instituted, and
- (b) not be required to pay any damages.

Nine further possible claims of this type have been notified to ASIC since 1 July 2007. It is not yet possible in any of those cases to assess the likelihood that proceedings will be commenced.

Unquantifiable contingent assets

Conversely, ASIC, like any other party to civil litigation may be entitled to recover costs arising out of such litigation if it is successful.

As at the date of this report ASIC has also incurred costs to undertake investigations and conduct litigation in relation to two large matters. ASIC may seek to recover these costs from the Enforcement Special Account (ESA) if the conditions for accessing the ESA are satisfied. As the quantum of costs have not been settled, the contingent receivable has not been quantified.

Remote contingencies

ASIC has no remote contingent assets or liabilities.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 12: Related party disclosures

The Commissioners of ASIC during the financial year and to the date of this report were:

A. M. D'Aloisio (Chairman)

J. R. Cooper (Deputy Chairman)

B. G. Gibson (Commissioner from 5 November 2007)

J. J. Lucy (Commissioner to 10 December 2007)

Loans to Commissioners and Commissioner-related entities

There were no loans made to Commissioners or Commissioner-related entities during the reporting period.

Other transactions with Commissioner-related entities

There were no other transactions with Commissioner-related entities during the reporting period, other than the payment of fees levied under the Corporations (Fees) Regulations.

Note 13: Remuneration of Commissioners

	2008 Commissioners	2007 Commissioners
The number of Commissioners of ASIC included in these figures are shown below in the relevant remuneration bands:		
\$135,000 – \$149,999	–	1
\$175,000 – \$190,999	1	–
\$225,000 – \$239,999	–	1
\$250,000 – \$264,999	1	–
\$415,000 – \$429,999	–	1
\$445,000 – \$459,999	1	–
\$505,000 – \$519,999	–	1
\$520,000 – \$534,999	1	–
Total number of Commissioners of ASIC	4	4
	2008 \$	2007 \$
Total remuneration received or due and receivable by Commissioners of ASIC:	1,411,538	1,316,051

Note 14: Remuneration of executives

	2008 Executives	2007 Executives
The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:		
\$130,000 to \$144,999	–	2
\$145,000 to \$159,999	2	7
\$160,000 to \$174,999	4	6
\$175,000 to \$189,999	2	1
\$190,000 to \$204,999	7	4
\$205,000 to \$219,999	3	6
\$220,000 to \$234,999	3	5
\$235,000 to \$249,999	3	2
\$250,000 to \$264,999	–	2
\$265,000 to \$279,999	5	1
\$280,000 to \$294,999	3	1
\$295,000 to \$309,999	4	1
\$310,000 to \$324,999	1	–
\$340,000 to \$354,999	2	2
\$355,000 to \$369,999	1	1
\$370,000 to \$384,999	1	–
\$385,000 to \$399,999	1	1
\$400,000 to \$414,999	1	–
\$550,000 to \$564,999	1	–
\$565,000 to \$579,999	–	1
\$670,000 to \$684,999	1	–
Total	45	43
	2008 \$	2007 \$
The aggregate amount of total remuneration of executives shown above is:	11,978,457	9,591,079
The aggregate amount of estimated separation/termination benefit expenses charged to the Income Statement in respect of executives shown above is:	2,016,556	456,436

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 15: Remuneration of auditors

	2008 \$	2007 \$
Since 1 July 2007 the Australian National Audit Office has provided financial statement audit services to ASIC free of charge. The fair value of that service during the reporting period is:	125,645	139,300

No other services were provided by the Auditor-General.

Note 16: Average staffing levels

	2008	2007
The average full-time equivalent staffing levels for ASIC during the year were:	1,669	1,610

Note 17: Financial instruments

	2008 \$'000	2007 \$'000
Note 17A: Categories of financial instruments		
Financial assets		
Loans and receivables financial assets		
Cash and cash equivalents ¹	8,415	51,660
Receivables for goods and services (net of allowance for doubtful debts)	3,405	3,331
Carrying amount of financial assets	11,820	54,991

1 In 2007–08 ASIC is required to maintain cash at a working capital level agreed with the Department of Finance and Deregulation.

Financial liabilities

At amortised cost		
Trade creditors	20,678	22,070
Rent payable	4,690	4,049
Finance leases	188	882
Carrying amount of financial liabilities	25,556	27,001

Note 17B: Net income and (expense) from financial assets

Loans and receivables		
Interest revenue	6	5,457
Impairment	(148)	(135)
Net gain/(loss) from financial assets	(142)	5,322

Note 17C: Net income and (expense) from financial liabilities

Financial liabilities – at amortised cost		
Interest expense	(40)	(93)

Note 17: Financial instruments continued ...

	2008 Carrying amount \$'000	2008 Fair value \$'000	2007 Carrying amount \$'000	2007 Fair value \$'000
Note 17D: Fair values of financial instruments				
Financial assets				
Cash and cash equivalents	8,415	8,415	51,660	51,660
Receivables for goods and services (net of allowance for doubtful debts)	3,405	3,405	3,331	3,331
Total financial assets	11,820	11,820	54,991	54,991
Financial liabilities				
Trade creditors	20,678	20,678	22,070	22,070
Rent payable	4,690	4,690	4,049	4,049
Finance leases	188	188	882	882
Total financial liabilities	25,556	25,556	27,001	27,001

Note 17E: Credit risk

ASIC is exposed to minimal credit risk as loans and receivables are cash and trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This amount is equal to the total amount of trade receivables (2008: \$3,405,098 and 2007: \$3,331,108). ASIC has assessed the risk of the default on payment for each receivable and has allocated \$239,302 in 2008 (2007: \$92,670) to an allowance for doubtful debts account.

ASIC has policies and procedures that guide employees' debt recovery techniques that are to be applied where debts are past due.

ASIC holds no collateral to mitigate against credit risk.

The table below shows the credit quality of financial instruments not past due or individually determined as impaired.

	Not Past Due Nor Impaired 2008 \$'000	Not Past Due Nor Impaired 2007 \$'000	Past due or impaired 2008 \$'000	Past due or impaired 2007 \$'000
Loans and receivables				
Cash and cash equivalents	8,415	51,660	—	—
Receivables for goods and services (gross)	3,226	2,889	418	535
Total	11,641	54,549	418	535

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 17: Financial instruments continued ...

Note 17E: Credit risk continued

Ageing of financial assets that are past due but not impaired for 2008:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Loans and receivables					
Receivables for goods and services	157	5	1	16	179
Total	157	5	1	16	179

Ageing of financial assets that are past due but not impaired for 2007:

	Overdue by				
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Loans and receivables					
Receivables for goods and services	218	149	51	24	442
Total	218	149	51	24	442

Note 17F: Liquidity risk

ASIC's financial liabilities are payables and finance leases. ASIC does not expect to have difficulty meeting its financial liabilities as and when they become due and payable.

The following tables illustrate the maturities for financial liabilities.

	Within 1 year 2008 \$'000	1 to 5 years 2008 \$'000	> 5 years 2008 \$'000	Total 2008 \$'000
Other liabilities				
Trade creditors	20,678	–	–	20,678
Rent payable	215	901	3,574	4,690
Finance leases	188	–	–	188
Total	21,081	901	3,574	25,556

Note 17: Financial instruments continued ...

Note 17F: Liquidity risk continued	Within 1 year 2007 \$'000	1 to 5 years 2007 \$'000	> 5 years 2007 \$'000	Total 2007 \$'000
Other liabilities				
Trade creditors	22,070	–	–	22,070
Rent payable	499	838	2,712	4,049
Finance leases	692	190	–	882
Total	23,261	1,028	2,712	27,001

As at 30 June 2008 ASIC has no financial liabilities payable on demand (2007: nil).

Note 17G: Market risk

Currency risk

ASIC's exposure to 'Currency risk' is minimal as only a small number of contracts are in currencies other than Australian dollars.

Interest rate risk

ASIC's financial instruments are not exposed to interest rate risk.

Note 18: Income administered on behalf of Government

Revenue	2008 \$'000	2007 \$'000
Note 18A: Non-taxation revenue		
Corporations Act fees ¹	476,856	458,236
Corporations Act fines	67,668	60,794
Corporations Act fees and fines	544,524	519,030
Monies received from banks and deposit-taking institutions in respect of accounts inactive for seven or more years	39,457	34,359
Monies received from life insurance institutions and friendly societies for policies not claimed within seven years	5,849	4,914
Total non-taxation revenue	589,830	558,303

¹ Fees and charges arise from actions which are mandatory under the Corporations Act. Examples include annual review fees and other fees prescribed in the Corporations (Fees) Regulations.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 18: Income administered on behalf of Government continued ...

Note 18A: Non-taxation revenue continued

Corporations Act fees and fines

	2008 \$'000 Fees	2008 \$'000 Fines	2008 \$'000 Total	2007 \$'000 Fees	2007 \$'000 Fines	2007 \$'000 Total
Mandatory collections ¹	428,470	66,960	495,430	413,289	59,514	472,803
Information broker fees ²	47,687	–	47,687	44,159	–	44,159
Other fees ²	699	–	699	788	–	788
Court receivables ³	–	708	708	–	1,280	1,280
	476,856	67,668	544,524	458,236	60,794	519,030

1 Fees and charges arise from actions which are mandatory under the Corporations Act. Examples include annual review fees and other fees prescribed in the Corporations (Fees) Regulations.

2 Fees and charges paid by information brokers (intermediaries between ASIC and the consumer) and other consumers for information provided by ASIC from its corporations information database.

3 Recovery of fines and penalties for contraventions of the Corporations Act.

	2008 \$'000	2007 \$'000
Note 18B: Interest		
Bank interest from:		
Life Insurance Act unclaimed monies account	–	27
Banking Act unclaimed monies account	–	51
Corporations Act refund account	–	45
Insolvency law reform account	–	32
Total interest	–	155

On 1 July 2007 the arrangements for ASIC's administered bank accounts were changed so that each night the account balances are swept to the Official Public Account and reinstated the following day. The reason for this change is to allow the Commonwealth to manage the investment of surplus public monies held by the Commonwealth.

Gains

Note 18C: Other gains

Resources received free of charge ¹	25	31
Total other gains	25	31

1 Financial statement audit services by the Auditor-General are provided free of charge to ASIC in relation to the audit of Corporations Act, Banking Act, Life Insurance Act, and other administered items. The fair value of the audit services provided for the reporting period is \$25,000 (2007: \$31,000).

Note 19: Expenses administered on behalf of Government

	Notes	2008 \$'000	2007 \$'000
Note 19A: Suppliers			
Services from external parties ¹		966	1,563
Total suppliers expenses		966	1,563

1 On behalf of the Government ASIC administers payments to registered insolvency practitioners to undertake preliminary investigations of suspected breaches of directors' duties and fraudulent conduct and to report the outcome of their findings to ASIC for further action as appropriate.

Note 19B: Write-down and impairment of assets

Bad and doubtful debts expense ¹	20B	20,930	19,604
Waiver of fees and charges owing ²		1,576	2,823
Total write-down and impairment of assets		22,506	22,427

1 Included in bad and doubtful debts expense are amounts written off under section 47 of the FMA Act. The number and aggregate amount of Commonwealth monies written off during the financial year under this section is 116,642 items totalling \$20,716,441 (2007: 107,993 items totalling \$20,096,051).

2 The number and aggregate of amounts owing to the Commonwealth, the recovery of which was waived during the financial year pursuant to section 34(1) of the FMA Act is 15,724 items totalling \$1,575,896 (2007: 21,642 items totalling \$2,823,210).

Note 19C: Other expenses

Refunds paid to bank and deposit taking institution account holders	28B	24,315	18,639
Refunds paid to life insurance policy holders	28B	5,105	7,589
Audit fees	24	25	31
Total other expenses		29,445	26,259

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 20: Assets administered on behalf of Government

Financial assets	Note	2008 \$'000	2007 \$'000
Note 20A: Cash and cash equivalents			
Cash at bank and on hand – Corporations Act		1,710	1,615
Cash at bank – Banking Act		456	456
Cash at bank – Life Insurance Act		5	250
Cash at bank – Insolvency law reform		893	185
Total cash and cash equivalents	27	3,064	2,506
Note 20B: Receivables			
Corporations Act:			
Corporations Act fees and charges		102,610	96,907
Information brokers fees		5,593	4,880
Other receivables:			
GST receivable from ATO		59	79
Total receivables		108,262	101,866
Less: Allowance for doubtful debts:			
Corporations Act		25,203	24,989
Total receivables (net)		83,059	76,877
Receivables are aged as follows:			
Not overdue		57,048	54,743
Overdue by:			
Less than 30 days		15,285	13,697
30 to 60 days		6,521	5,153
61 to 90 days		3,040	2,617
More than 90 days		26,368	25,656
Total receivables		108,262	101,866
The allowance for doubtful debts is aged as follows:			
Not overdue		384	636
Overdue by:			
Less than 30 days		702	598
30 to 60 days		777	670
61 to 90 days		645	586
More than 90 days		22,695	22,499
Total allowance for doubtful debts		25,203	24,989

Receivables are due from entities that are not part of the Australian Government.

Note 20: Assets administered on behalf of Government continued ...

Note 20B: Receivables continued

	2008 \$'000	2007 \$'000
Financial assets		
<i>Reconciliation of the movement in the allowance for doubtful debts</i>		
Opening balance 1 July	24,989	25,481
Amounts written off	(20,716)	(20,096)
Increase in allowance for doubtful debts recognised as an expense	20,930	19,604
Closing balance	25,203	24,989

Note 21: Liabilities administered on behalf of Government

Payables	Note	2008 \$'000	2007 \$'000
Note 21A: Suppliers			
Corporations Act refunds		2,567	2,452
Unallocated monies – Corporations Act		1,830	1,367
Trade creditors	27	446	795
Total suppliers		4,843	4,614

All creditors are entities that are not part of the Australian Government.

Note 22: Administered reconciliation table

<i>Opening administered assets less administered liabilities as at 1 July</i>	74,769	71,993
Plus: Administered revenues	589,855	558,489
Less: Administered expenses	(52,917)	(50,249)
Appropriation transfers from OPA:		
Special appropriations (unlimited)	35,028	30,689
Transfers to OPA	(565,455)	(536,153)
Closing administered assets less administered liabilities as at 30 June	81,280	74,769

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 23: Administered cash flow reconciliation

<i>Reconciliation of net contribution to budget outcome to net cash provided by operating activities</i>	2008 \$'000	2007 \$'000
Net contribution to budget outcome	536,938	508,240
Increase / (decrease) in allowance for doubtful debts	214	(493)
Increase in payables and provisions	229	390
(Increase) in receivables	(6,396)	(3,129)
	(5,953)	(3,232)
<i>Net cash provided by operating activities</i>	530,985	505,008

Note 24: Remuneration of auditors – administered items

	\$	\$
Financial statement audit services by the Auditor-General are provided free of charge to ASIC in relation to the audit of Corporations Act, Banking Act, Life Insurance Act, and other administered items. The fair value of that service during the reporting period is:	25,000	31,000

Note 25: Administered contingent liabilities

Quantifiable administered contingencies

Quantifiable administered contingencies that are not remote are disclosed in the Schedule of Administered Items.

Unquantifiable and remote administered contingencies

There are no unquantifiable administered contingent liabilities.

There are no remote administered contingent liabilities.

Note 26: Administered contingent assets

There are no administered contingent assets.

Note 27: Administered financial instruments

			2008 \$'000	2007 \$'000
Note 27A: Categories of financial instruments				
Financial liabilities				
At amortised cost				
Trade creditors			446	795
Note 27B: Net income and expense from financial assets				
Interest revenue			–	155
Note 27C: Fair values of financial assets and liabilities				
	2008 Carrying amount \$'000	2008 Fair value \$'000	2007 Carrying amount \$'000	2007 Fair value \$'000
Financial assets				
Cash and cash equivalents	3,064	3,064	2,506	2,506
Financial liabilities				
Trade creditors	446	446	795	795

Note 27D: Credit risk

ASIC's administered receivables arise as a result of a statutory obligation and are therefore not classified as financial instruments.

ASIC has no significant exposures to any concentrations of credit risk.

Note 27E: Liquidity risk

ASIC's administered financial liabilities are trade creditors. ASIC does not expect to have difficulty meeting its financial liabilities as and when they become due and payable.

All Administered financial liabilities as at 30 June 2008 and 30 June 2007 are payable within 1 year.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 28: Appropriations

Note 28A: Acquittal of authority to draw cash from the Consolidated Revenue Fund (CRF)

Particulars	Departmental outputs ¹		Ordinary annual services appropriation – Administered expenses	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Balance carried from previous period	851	–	748	(8)
Opening cash balance ¹	51,660	n/a	n/a	n/a
Appropriation Act:				
Appropriation Act (No.1)	291,566	265,194	5,206	3,984
Appropriation Act (No.2)	37,210	6,514	–	–
Appropriation Act (No.3)	607	–	–	–
Appropriation Act (No.4)	1,548	–	–	–
Departmental adjustments by the Finance Minister (Appropriation Acts)	–	(9,500)	–	–
Administered appropriations lapsed (Appropriation Act section 8)	–	–	(4,240)	(2,421)
Enforcement Special Account:				
Act 1 appropriation not recognised in the current year	(8,158)	(13,012)	–	–
FMA Act:				
Appropriations to take account of recoverable GST (FMA Act section 30A)	8,996	n/a	116	118
Annotations to 'net appropriations' (FMA Act section 31)	10,713	n/a	–	–
Total appropriation available for payments	394,993	249,196	1,830	1,673
Cash payments from the CRF	–	(257,845)	–	–
Cash returned to the CRF	–	9,500	–	–
Cash payments made during the year (GST inclusive)	(276,343)	n/a	(1,411)	(925)
Balance of authority to draw cash from the CRF	118,650	851	419	748
Represented by				
Cash	8,415		893	185
Departmental appropriations receivable				
Enforcement Special Account (ESA)	5,636	851	n/a	n/a
Departmental outputs (other than ESA)	79,231	–	n/a	n/a
Equity injections	25,368	–	n/a	n/a
<i>Total departmental appropriations receivable</i>	110,235	851	n/a	n/a
Undrawn, unlapsd administered appropriation	n/a	n/a	(474)	563
Total	118,650	851	419	748

1 This note has been prepared in accordance with Division 104 of the 'Finance Minister's Orders for financial reporting'. The figures for 2007–08 and 2006–07 are not comparable because the disclosure requirements are different for FMA and CAC prescribed agencies.

Note 28: Appropriations continued ...

Note 28B: Acquittal of authority to draw cash from the OPA for special appropriations (unlimited amounts)

ASIC receives special appropriations for refunds of collected monies when required (further details are provided within the tables below). The purpose of this note is to summarise the actual utilisation of the OPA for these special appropriation compared to the initial estimate included in the Government's Budget for each class of appropriation.

Banking Act 1959

Legal authority – *Banking Act 1959*

Purpose – ASIC has responsibility for the administration of unclaimed monies from banking and deposit taking institutions. Monies from banking and deposit taking institution accounts that remain inactive for seven or more years are transferred to the Commonwealth, and are deposited into the OPA.

ASIC receives special appropriations from the OPA (section 69 Banking Act) to refund amounts to banking and deposit taking institution account holders.

All transactions under this Act are recognised as administered items.

	2008 \$'000	2007 \$'000
Budget estimate	20,000	18,000
Payments made	24,315	18,639

Life Insurance Act 1995

Legal authority – *Life Insurance Act 1995*

Purpose – ASIC has responsibility for the administration of unclaimed monies from life insurance institutions and friendly societies. Monies in respect of matured life insurance policies that have not been claimed within seven years are transferred to the Commonwealth and are deposited into the OPA.

ASIC receives special appropriations from the OPA (section 216 Life Insurance Act) to refund amounts to life insurance policy holders.

All transactions under this Act are recognised as administered items.

Budget estimate	8,000	3,000
Payments made	5,105	7,589

Corporations Act 2001 (Refunds of overpaid Corporations Act fees and charges)

Legal authority – *Corporations Act*

Purpose – ASIC has responsibility for the administration and collection of Corporations Act fees and charges. All fees and charges are deposited into the CRF as received. Refunds of overpayments are appropriated under section 28 of the FMA Act.

All transactions of this type under this Act are recognised as administered items.

Budget estimate	6,000	6,000
Payments made	4,358	3,622

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 28: Appropriations continued ...

Note 28B: Acquittal of authority to draw cash from the OPA for special appropriations (unlimited amounts) continued

Corporations Act 2001 (Companies and Unclaimed Moneys Special Account)

Legal authority – Corporations Act

Purpose – ASIC has responsibility for the administration of unclaimed monies from the Companies and Unclaimed Moneys Special Account. Monies that are not claimed within six years are transferred to the Commonwealth (Part 9.7 of the Corporations Act), and are deposited into the OPA. Refunds are appropriated under section 28 of the FMA Act.

All transactions of this type under Part 9.7 of this Act are recognised in Note 34: Special Accounts (2007: Note 29: Assets held in trust).

	Notes	2008 \$'000	2007 \$'000
Budget estimate		–	–
Payments made	34B, 29	<u>303</u>	<u>204</u>

Note 29: Assets held in trust

Financial assets

Comcare Trust Account

Purpose – monies held in trust and advanced to ASIC by Comcare for the purpose of distributing compensation payments made in accordance with the *Safety Rehabilitation and Compensation Act 1988*.

Balance carried forward from previous year	–	26
Receipts during the year	–	159
Interest received	–	3
Available for payments	–	188
Payments made	–	(188)
Closing balance¹	–	–

1 The Comcare trust account was closed during the 2006–07 financial year following an amendment to the *Safety Rehabilitation and Compensation Act 1988*. The amendment to the Act now allows for payments to reimburse employers directly. Payments that are direct reimbursement to employers are no longer considered to be Special Public Money. Therefore from 1 July 2006, amounts received for claims made for an injury occurring on or after 1 July 2006 which are reimbursements are not required to be deposited into a Special Account nor disclosed as an asset held in trust.

Note 29: Assets held in trust continued ...

Companies Unclaimed Monies

Purpose – monies received under the Corporations Act (Part 9.7) are placed in a special purpose bank account and are expended in accordance with that Act. The principal amount of these monies is not available to ASIC and accordingly is not recognised in the financial statements.

On becoming a prescribed agency on 1 July 2007 the funds ASIC previously held in trust under Part 9.7 of the Corporations Act were transferred to the Companies and Unclaimed Moneys Special Account (Note 34C refers).

	Note	2008 \$'000	2007 \$'000
Opening balance		206,281	196,581
Transfer to the Companies and Unclaimed Moneys Special Account	34B	(206,281)	–
Receipts during the year		–	28,625
Special appropriations received (section 28(2) FMA Act)		–	204
Special purpose receipt		–	102
Interest received		–	12,044
Disbursements		–	(28,040)
Special purpose disbursement		–	(325)
Management costs recovered by ASIC		–	(472)
Transfer to the CRF		–	(2,438)
Closing balance		–	206,281

Represented by

Cash at bank and on deposit	–	206,268
Accrued interest	–	–
GST receivable	–	13
	–	206,281

Unclaimed Monies Holding Account

Purpose – ASIC has established a special purpose bank account in terms of section 601AD and Part 9.7 of the Corporations Act. Monies received are expended in accordance with the Corporations Act. These monies are not available to ASIC and are not recognised in the financial statements.

On becoming a prescribed agency on 1 July 2007 the funds ASIC previously held in trust under section 601AD and Part 9.7 of the Corporations Act were transferred to the Other Trust Moneys Special Account (Note 34F refers).

Opening balance		29	39
Transfer to the Other Trust Moneys Account	34F	(29)	–
Receipts during the year		–	113
Interest received		–	2
Disbursements		–	(125)
Closing balance		–	29

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 30: Expenditure relating to statutory boards and tribunal

Pursuant to Parts 11 and 12 of the ASIC Act, ASIC is required to support statutory boards and a tribunal to promote activities that assist ASIC to attain its aims.

The following expenditure incurred on behalf of these boards and tribunal are included in the income statement of ASIC:

	2008 \$'000	2007 \$'000
Companies Auditors and Liquidators Disciplinary Board	1,289	1,175
Australian Accounting Standards Board	1,635	1,620
Superannuation Complaints Tribunal	4,568	4,376

The Superannuation Complaints Tribunal (SCT) is an independent body with distinct responsibilities as set out under the *Superannuation (Resolution of Complaints) Act 1993* and has operated under the budgetary umbrella of ASIC since 1 July 1998.

Note 31: Assets of deregistered companies vesting in ASIC

Section 601AD of the Corporations Act provides that, on deregistration of a company, all of the company's property vests in ASIC. ASIC adopts a passive approach to administering vested property and accounts for any proceeds on realisation of those assets in accordance with its statutory duties.

ASIC generally only deals with vested property once an application is made by a third party for ASIC to exercise its powers under section 601AE of the Corporations Act. ASIC does not consider it practical to value any identified property vesting and consequently such property is not recorded or disclosed in these financial statements.

Note 32: Fiduciary monies (other than trust monies)

	Notes	2008 \$'000	2007 \$'000
Monies held pending the outcome of ASIC investigations and/or legal proceedings			
Opening balance		626	127
Transfer to Other Trust Moneys Special Account ¹	34F	(626)	–
Reclassified during the year		–	(127)
Receipts during the year		–	1,560
Interest received		–	19
Disbursements		–	(953)
Closing balance		–	626

Monies received and disbursed in accordance with orders made by the courts or deeds of settlement between ASIC and other parties

Cash at bank

Opening balance		130	473
Transfer to Other Trust Moneys Special Account ¹	34F	(130)	–
Reclassified during the year		–	127
Receipts during the year		–	838
Interest received		–	8
Disbursements		–	(1,316)
Closing balance		–	130

Investments^{1, 2}

A parcel of shares was vested in ASIC on 25 June 2007 pursuant to an order made by a court requiring ASIC to sell the shares and apply the proceeds, less costs, in accordance with Part 9.7 of the Corporations Act. Based on the closing price quoted on the Australian Securities Exchange on 29 June 2007, the value of these shares was \$4,336,778. This investment was realised on 21 September 2007 and the balance was deposited into the Unclaimed Monies Holding Account.

1 On becoming a prescribed agency on 1 July 2007 the funds ASIC previously held in trust under section 601AD and Part 9.7 of the Corporations Act were transferred to the Other Trust Moneys Special Account (Note 34F refers).

2 Special Accounts are reported on a cash basis and therefore the amount realised for these shares is included in the balance of 'Receipts during the year' disclosed in Note 34F.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 33: Security deposits from dealers, investment advisers and liquidators

The Corporations Act and the *Corporations Regulations 2001* requires applicants for a dealers or investment advisers licence, and applicants for registration as a liquidator, to lodge a security deposit with ASIC. These monies, deposits, stock, bonds or guarantees are not available to ASIC and are not recognised in the financial statements.

	Notes	2008 \$'000	2007 \$'000
Security deposits under Corporations Regulations 2001 regulation 7.6.02AAA (2007: regulation 10.2.45) (dealers and investment advisers)			
Cash (at bank)	34D, 34F	43	43
Interest bearing deposits (at bank)	34D, 34F	380	400
Inscribed stock		20	20
Insurance bonds		20	20
Bank guarantees		35,230	36,790
Closing balance		35,693	37,273
Security deposits under Corporations Act 2001 section 1284(1) (liquidators)			
Insurance bonds		1,800	3,950
Bank guarantees		250	750
Closing balance		2,050	4,700

Note 34: Special Accounts

Note 34A: Enforcement Special Account (Departmental)

Legal authority – section 20(1) FMA Act and *Financial Management and Accountability Determination 2006/31 – Enforcement Special Account Establishment 2006*

Appropriation – section 20 FMA Act

Purpose – The Enforcement Special Account (ESA) is a departmental Special Account which was established by a determination of the Finance Minister on 13 September 2006 to fund the costs of ASIC arising from the investigation and litigation of exception matters of significant public interest.

	2008 \$'000	2007 \$'000
Balance carried forward from previous year	13,863	–
Appropriation for the reporting period	30,000	30,000
Costs recovered	171	–
Available for payments	44,034	30,000
Cash repaid to the OPA	(171)	–
Cash payments from the Special Account ¹	(17,228)	(16,137)
Balance available to draw down next year	26,635	13,863

¹ For the period ended 30 June 2008 ASIC recognised ESA revenue of \$21.842m (2007:\$16.988m), of which \$17.228m (2007:\$16.137m) was drawn down during the year.

Note 34B: Companies and Unclaimed Moneys Special Account (Administered) – established 1 July 2007

Legal authority – section 21 FMA Act and section 133 of the ASIC Act

Appropriation – section 21 FMA Act

Purpose – The Companies and Unclaimed Moneys Special Account (CUMSA) was established on 1 July 2007 when ASIC became a prescribed agency under the FMA Act.

The CUMSA was established to administer unclaimed moneys received by ASIC under section 1341 of the Corporations Act.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 34: Special Accounts continued ...

Note 34B: Companies and Unclaimed Moneys Special Account (Administered) – established 1 July 2007 continued	2008 \$'000	2007 \$'000
Table A – Special Account		
Balance carried forward from previous year	–	–
Transfer from Assets held in trust ¹	206,281	–
Appropriation for the reporting period	303	–
Receipts during the year	44,105	–
Interest amounts credited	2,430	–
Investments realised	2,549	–
Available for payments	255,668	–
Cash transferred to Consolidated Revenue	(2,732)	–
Investments made from the Special Account	(207,064)	–
Disbursements	(33,535)	–
Administration costs	(659)	–
Special purpose disbursement	(2,300)	–
Balance carried to next period (excluding investment balances) and represented by:	9,378	–
Cash – held by ASIC	9,378	–

1 On 1 July 2007 ASIC become a prescribed agency under the FMA Act and on this date moneys ASIC administers under section 1341 of the Corporations Act were transferred to the Companies and Unclaimed Moneys Special Account.

Table B – Special Account investment of Public Money

Special Appropriations under section 39 of the FMA Act		
Balance carried forward from previous year	–	–
Investments made from the Special Account	207,064	–
Investment income	9,747	–
Investments realised	(2,549)	–
Balance carried to next period	214,262	–

Note 34: Special Accounts continued ...

Note 34C: Deregistered Companies Trust Moneys Special Account (Trust)

Legal authority – section 20(1) FMA Act and *Financial Management and Accountability Determination 2008/02 – ASIC Deregistered Companies Trust Moneys Special Account Establishment 2008*

Appropriation – section 20 FMA Act

Purpose – The Deregistered Companies Trust Moneys Special Account was established by the Finance Minister on 18 February 2008 to manage property vesting in the Commonwealth as a result of the deregistration provisions of the Corporations Act.

	Note	2008 \$'000	2007 \$'000
Balance carried forward from previous year		–	–
Transfer from Other Trust Moneys Special Account	34F	4,507	–
Receipts during the year		37	–
Interest received		105	–
Disbursements		(13)	–
Closing balance		4,636	–

Note 34D: ASIC Security Deposits Special Account (Trust)

Legal authority – section 20(1) FMA Act and *Financial Management and Accountability Determination 2008/03 – ASIC Security Deposits Special Account Establishment 2008*

Appropriation – section 20 FMA Act

Purpose – The ASIC Security Deposits Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage security deposits lodged with ASIC by registered liquidators, licensed securities dealers, licensed investment advisers and financial services licensees.

Balance carried forward from previous year		–	–
Transfer from Other Trust Moneys Special Account	34F	443	–
Disbursements		(20)	–
Closing balance		423	–

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 34: Special Accounts continued ...

Note 34E: ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account (Trust)

Legal authority – section 20(1) FMA Act and *Financial Management and Accountability Determination 2008/04 – ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account Establishment 2008*

Appropriation – section 20 FMA Act

Purpose – The ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account was established by a determination of the Finance Minister on 18 February 2008 to manage money or other property temporarily held by ASIC for the benefit of a person other than the Commonwealth as a result of investigations conducted by ASIC, legal proceedings to which ASIC is a party, deeds of settlement to which ASIC is a party, enforceable undertakings accepted by ASIC and court orders referring to ASIC.

	Note	2008 \$'000	2007 \$'000
Balance carried forward from previous year		–	–
Transfer from Other Trust Moneys Special Account	34F	260	–
Receipts during the year		124	–
Interest received		6	–
Disbursements		(266)	–
Closing balance		124	–

Note 34F: Other Trust Moneys Special Account (Administered)

Balance carried forward from previous year	–	–
Transfer from assets held in trust	29	–
Transfer from fiduciary monies	756	–
Transfer from Security deposits – dealers and investment advisers	443	–
Receipts during the year	4,794	–
Interest received	116	–
Disbursements	(928)	–
Transfer to ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account	(260)	–
Transfer to ASIC Security Deposits Special Account	(443)	–
Transfer to Deregistered Companies Trust Moneys Special Account	(4,507)	–
Balance carried to next period	–	–

Note 34G: Services for Other Governments and Non-Agency Bodies Special Account (Administered)

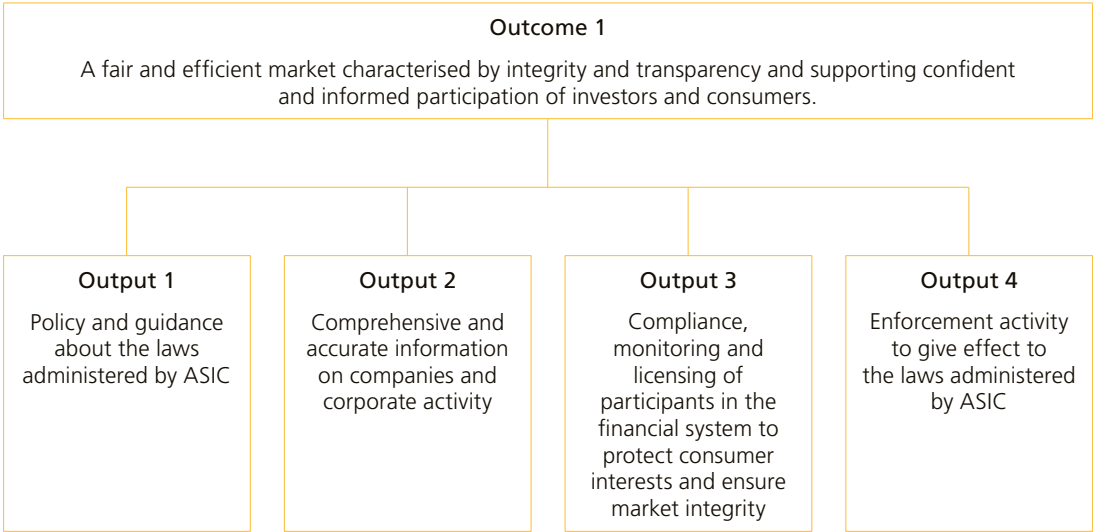
This Special Account was established on 31 December 1997 by the Department of Finance and Deregulation (formerly the Department of Finance and Administration) in accordance with the terms of section 2 of the FMA Act ('Services for Other Governments and Non-Agency Bodies Account'). There was no transactions in this account during the year and the balance of this account is nil (2007: nil).

Note 35: Reporting of outcomes

The outcomes and outputs framework for budgeting and reporting was introduced by Government for all Commonwealth Departments and Agencies in 1999–2000.

ASIC receives funding from Government within the context of this framework to regulate the market in order to achieve ‘a fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers’ (Outcome 1).

ASIC’s operations and activities that give effect to its role as a regulator are categorised into four outputs. The relationship between Outcome 1 and the corresponding four outputs is shown in the diagram below.



NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2008

Note 35: Reporting of outcomes continued ...

	Outcome 1	
	2008	2007
	\$'000	\$'000
Note 35A: Net contribution of outcome		
Expenses		
Administered	52,917	50,249
Departmental	273,806	255,710
Total expenses	326,723	305,959
Costs recovered from provision of services to the non-government sector		
Departmental	2,780	2,800
Total costs recovered	2,780	2,800
Other external revenues		
Administered		
Non-taxation revenue	589,830	558,458
Departmental		
Interest	6	5,457
Net gains from sale of assets	–	2
Other revenue	4,180	3,154
Total other external revenues	594,016	567,071
Net (contribution) of outcome	(270,073)	(263,912)

The above table shows the net contribution to the Commonwealth Budget outcome by adding the departmental and administered expenses, less external departmental and administered revenues and costs recovered to produce a net contribution to the Budget outcome of \$270.073m (2007: \$263.912m). This derived amount is meaningful only when it is used to consider ASIC's contribution to the Budget outcome for the purposes of 'whole of Government' reporting. It is not intended to represent or portray an alternative operating result for ASIC to that which is disclosed in the Income Statement.

Administered expenses represent revenue forgone to the Commonwealth as a result of refunds and waivers and write-offs of fees and charges owing to the Commonwealth (not ASIC) under the Corporations Act. Administered revenues and administered expenses are detailed in Notes 18 and 19 respectively.

Note 35: Reporting of outcomes continued ...

Note 35B: Major classes of departmental revenues and expenses by output

Outcome 1	Output 1		Output 2		Output 3		Output 4		Outcome 1 Total	
	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000	2008 \$'000	2007 \$'000
Departmental expenses										
Employee benefits	11,256	9,544	27,240	27,323	47,174	41,937	79,006	68,930	164,676	147,734
Suppliers	5,424	5,520	16,838	14,557	17,050	13,464	53,618	57,246	92,930	90,787
Depreciation and amortisation	922	955	2,605	2,826	3,840	3,978	8,187	8,809	15,554	16,568
Finance costs	12	5	88	25	50	23	156	239	306	292
Write-down of assets	20	18	54	75	83	78	177	158	334	329
Net losses from sale of assets	–	–	1	–	2	–	3	–	6	–
Total departmental expenses	17,634	16,042	46,826	44,806	68,199	59,480	141,147	135,382	273,806	255,710
Funded by:										
Revenues from Government	17,144	15,286	53,391	40,078	64,720	61,204	146,963	127,490	282,218	244,058
Sale of services	26	89	3,150	2,433	811	907	383	715	4,370	4,144
Interest	–	327	1	873	2	1,364	3	2,893	6	5,457
Royalties	–	–	325	360	–	–	–	–	325	360
Other revenues	63	74	747	395	307	305	3,827	3,059	4,944	3,833
Net gains from sale of assets	–	–	–	–	–	1	–	1	–	2
Resources received free of charge	16	–	21	–	21	–	68	–	126	–
Total departmental income	17,249	15,776	57,635	44,139	65,861	63,781	151,244	134,158	291,989	257,854

The surplus in Outputs 2 and 4 in 2007–08 includes underspending against appropriation received for a major IT project. The unspent appropriation will be used in future financial periods to fund this IT initiative.

In 2006–07 revenue is greater than expenses for Output 3 due to funding received for certain specific purpose initiatives being underspent by \$6.104m.

Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2008

Note 35: Reporting of outcomes continued ...

	Outcome 1	
	2008	2007
	\$'000	\$'000
Note 35C: Major classes of administered revenues and expenses by outcome		
Administered income		
Other taxes, fees and fines	544,524	519,030
Monies from banks and deposit taking institutions	39,457	34,359
Monies from life insurance institutions	5,849	4,914
Interest	–	155
Services free of charge	25	31
Total administered income	589,855	558,489
Administered expenses		
Suppliers	966	1,563
Write-down and impairment of assets	22,506	22,427
Other expenses	29,445	26,259
Total administered expenses	52,917	50,249

End of Financial Statements.

GLOSSARY

AAT	Administrative Appeals Tribunal	FMA Act	<i>Financial Management and Accountability Act 1997</i>
ACCC	Australian Competition and Consumer Commission	FMOs	Finance Minister's Orders
ACR	Australian Capital Reserve Limited	FOI Act	<i>Freedom of Information Act 1982</i>
ACT	Australian Capital Territory	FTE	full-time equivalent
AFS licence	Australian financial services licence	IFIAR	International Forum of Independent Audit Regulators
APRA	Australian Prudential Regulation Authority	IOSCO	International Organization of Securities Commissions
APS	Australian Public Service	MAS	Monetary Authority of Singapore
ASIC	Australian Securities and Investments Commission	MINCO	Ministerial Council for Corporations
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>	MRSO	Mutual Recognition of Securities Offerings
ASX	Australian Securities Exchange	NSW	New South Wales
AWA	Australian Workplace Agreement	NT	Northern Territory
CA	Collective Agreement	OBPR	Office of Best Practice Regulation
CALDB	Companies Auditors and Liquidators Disciplinary Board	OH&S Act	<i>Occupational Health and Safety Act 1991</i>
CAP	Consumer Advisory Panel	PCAOB	Public Company Accounting Oversight Board
CBRC	China Banking Regulatory Commission	QDII	Qualified Domestic Institutional Investor
CDPP	Commonwealth Director of Public Prosecutions	Qld	Queensland
CFDs	contracts for difference	SA	South Australia
COP	communities of practice	SBR	Standard Business Reporting
CSRC	China Securities Regulatory Commission	SEC	Securities and Exchange Commission
ECM	enterprise content management	SF Fin	Senior Fellow, Financial Services Institute of Australasia
EPAS Fund	Employees Productivity Award Superannuation Fund	Tas	Tasmania
FAI	FAI General Insurance Company Limited	US	United States of America
FAICD	Fellow, Australian Institute of Company Directors	Vic	Victoria
FCA	Fellow, Institute of Chartered Accountants	WA	Western Australia
FICA	Finance Industry Council of Australia		

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ISBN 978-0-9805021-5-2

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