



A YEAR OF **consolidation**

ASIC Annual Report

08-09



ASIC

Australian Securities & Investments Commission

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ASIC

Australian Securities & Investments Commission

TONY D'ALOISIO

Chairman

No.1 Martin Place, Sydney
GPO Box 9827 Sydney NSW 2001
DX 653 Sydney

9 September 2009

The Hon Chris Bowen, MP
Minister for Financial Services, 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 2009.

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 2009.

The theme of our report is 'A Year of Consolidation' to emphasise that we have consolidated the changes we put in place last financial year and that our new structure and leadership is delivering results for the community.

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

at a glance 08—09

We're pushing

the regulatory regime to the limit by using all our powers

... shifting focus

to get money back for retail investors involved in failed schemes when there has been wrongdoing

... restoring confidence:

an important tool for changing market conduct for the better, is strong enforcement

ASIC's role

Under s1(2) of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), ASIC is responsible for:

- ♦ maintaining, facilitating and improving the performance of the financial system
- ♦ promoting confident and informed participation in the financial system
- ♦ administering laws effectively and reducing regulatory costs
- ♦ managing information and making it publicly available, and
- ♦ enforcing the law.

ASIC's 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 output, see pages 4 and 5

... taking on

the difficult cases, where, whether we win or lose, we use the case, consistent with the principles of a model litigant, to test important principles which clarify the law on issues in the public interest (e.g. insider trading)

... suggesting changes

when the regulatory regime should be improved

ASIC's activities

ASIC regulates 1.7 million companies across Australia, more than 4,800 financial services businesses, and 16 financial markets. ASIC works to improve Australia's financial system including superannuation, managed funds, insurance, credit, deposit-taking and financial advice.

It also works to protect retail investors and financial consumers.

ASIC works with Australian and international regulators on the regulatory reform agenda in financial markets, and gives advice to Australia's Government to aid its policy formulation and decision making.

ASIC's budget

ASIC's operating expenditure budget for 2008-09 was \$295 million.

ASIC's people

At 30 June 2009, ASIC employed 1817 staff in offices in every state and territory.

ASIC's governance

ASIC is a Commonwealth Government body, led by five full-time Commissioners, accountable to the Minister and the Parliament under the ASIC Act, and through administrative and judicial review.

ASIC'S priorities AND key achievements

FINANCIAL ECONOMY

make a real difference in improving confidence in financial market integrity

Assist and protect retail investors and financial consumers



- ◆ Sought compensation for retail investors for losses arising from corporate wrongdoing.
- ◆ Improved consumer access to dispute resolution schemes.
- ◆ Helped investors make informed decisions by promoting better disclosure.
- ◆ Made it easier for consumers to switch bank accounts to get a better deal with new account switching service.
- ◆ Developed financial literacy resources targeted to teachers, Indigenous communities and defence force personnel.

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Build confidence in the integrity of Australia's capital markets



- ◆ Increased monitoring and surveillance of capital markets.
- ◆ Achieved 1 conviction for insider trading, 2 for market manipulation plus 2 charges laid for insider trading, 4 for market manipulation. Commenced a civil penalty action for market manipulation.
- ◆ Banned 2 brokers for insider trading, 3 for market manipulation, 1 for false representation (rumours), (3 are under appeal).
- ◆ Launched program to monitor the spreading of false or misleading market rumours.
- ◆ Concluded landmark case that reminded companies and directors about the importance of good corporate governance practices and market disclosure obligations (James Hardie).

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Facilitating international capital flows and international enforcement



- ◆ Entered into mutual recognition framework arrangement with the US Securities and Exchange Commission.
- ◆ Facilitated fund raising via the Australia-New Zealand Trans Tasman Mutual Recognition of Securities Offerings.
- ◆ Cooperated with international regulators on enforcement and surveillance matters.
- ◆ Contributed to IOSCO's Executive and Technical Committees and the Asia Pacific Regional Committee.

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REAL ECONOMY

deliver outstanding and cost-effective services

Manage the domestic and international implications of the global financial crisis



- ◆ Acted decisively to increase confidence in markets by restricting short-selling during market turbulence.
- ◆ Chaired IOSCO's task force on unregulated products and markets and participated in task forces on short selling, credit rating agencies and hedge funds.
- ◆ Assisted investors in GFC-affected schemes, allowing withdrawals from frozen mortgage trusts on 'hardship' grounds.
- ◆ Facilitated capital raisings with new equity raising policies streamlining the fundraising process, making it easier to include retail investor participation.

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Lift operational effectiveness and service levels for all ASIC stakeholders



- ◆ Dealt with 13,633 complaints, up 19% and finalised 70% in 28 days, in line with our target.
- ◆ Successfully prosecuted 724 company officers for 1,125 contraventions. Penalties included 69 good behaviour bonds and total fines and costs of \$1.03 million.
- ◆ Handled a 12% increase in calls to Infoline. From September 2008, achieved an increased target grade of service in our call centre from 80% of calls answered in 60 seconds to 90%.

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Improve services and reduce costs with new technologies and processes



- ◆ Despite a changing workload due to the GFC, we delivered record Service Charter results.
- ◆ Popularity of our online services continues to rise with the proportion of all forms lodged online at 66.4%, an increase of 3.7% over 07–08.
- ◆ New online service for lodgement of e-product disclosure statement services: 98% lodged online since introduction in January 2009.
- ◆ New online service for lodgement of application to register a managed investment scheme: 11% lodged online since service introduced in March 2009.

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CHAIRMAN'S REPORT

Last year's annual report was entitled 'A Year of Change'. It outlined the first steps taken to review ASIC and better position it to meet the regulatory challenges of the future, in a changing economic environment.

This year's report is entitled 'A Year of Consolidation'. It signifies that the changes we put in place in 2007–08 have delivered benefits and better positioned ASIC to respond to the global financial crisis.

In 2008–09, the year of this report, we saw market capitalisation of global equities markets fall by 58% from their peak on 31 October 2007 (US\$63.0 trillion) to the trough on 9 March 2009 (US\$26.5 trillion). Here in Australia, over \$771 billion in stock market capitalisation was wiped out from peak to trough – equivalent to 65% of one year's output (GDP) in 2008. In recent months, our markets have recovered somewhat, regaining \$266 billion in market capitalisation from 10 March to 30 June 2009. However the effects of the past year of crisis are still being felt by many Australian companies, consumers and investors.

In this report, we detail our achievements against ASIC's six strategic priorities. Four financial economy priorities focused on retail investors, capital market integrity, and capital flows, along with a new strategic priority – managing the domestic and international implications of the global financial crisis. Our two real economy priorities focus on lifting operational effectiveness and using new technology and processes to improve services and reduce costs.

Protect retail investors

ASIC has vigorously enforced the law and taken steps to protect retail investors, including when appropriate, seeking compensation for investors under s50 of the ASIC Act.

Since November 2007, ASIC has commenced 18 civil actions seeking to recover funds for the benefit of Westpoint investors, including claims

against the directors of Westpoint mezzanine companies, the auditors of the Westpoint Group and certain financial planners and a trustee. In total, the actions seek approximately \$559.9 million.

Opes Prime is another example where ASIC has taken action to recover money for investors. As a result of mediation initiated by ASIC, proposals for schemes of arrangement were accepted by Opes' creditors and approved by the Federal Court. The schemes should deliver a sum of \$253 million and a return of 37 cents in the dollar to Opes' creditors, including the Opes clients.

Improving confidence in market integrity

ASIC has taken strong action to build and maintain confidence in the integrity of Australia's financial markets. In 2008, we streamlined internal processes to improve detection and action against market abuse. We have added resources to our work on insider trading, market manipulation and continuous disclosure. The results of this work are clear.

During the financial year, we achieved one conviction for insider trading and two for market manipulation. Two charges were laid for insider trading and four charges for market manipulation and we commenced a civil penalty action for market manipulation. In addition, we referred six new cases of insider trading to the CDPP for potential prosecution and three new cases of market manipulation. Two brokers were banned from the financial services business for insider trading, three for market manipulation and one for false representation (rumours), though three of these are under appeal.

A relatively new development for ASIC is our greater focus on bannings as a deterrent in market abuse matters. The combination of a strong deterrent effect and faster outcome makes this a useful tool.

This year's report is entitled 'A Year of Consolidation'.

It signifies that the changes we put in place in 2007–08 have delivered benefits and better positioned ASIC to respond to the global financial crisis.

Our work on short selling, described in detail on page 34, is another example of ASIC acting decisively to maintain the integrity of Australian financial markets.

ASIC carefully monitored the impact of short selling on overall market stability and integrity during the extreme market conditions in September 2008. We intervened when the state of international financial markets, combined with continuing rumourtrage, threatened confidence in the domestic market. We worked with the ASX to ban naked, and then covered, short selling.

We retained the ban on short selling in financial stocks until 24 May 2009, when markets had stabilised and the risk of systemic disruption receded, and short selling could again contribute to efficient price discovery and liquidity.

We have been assisted in exercising these powers with the recent Government legislation and by working more closely with APRA, the RBA and the ASX.



ASIC engages in global regulatory change agenda

On the international front, ASIC's membership of IOSCO and our involvement in a number of key taskforces means we are well-placed to assist Treasury and Government to help shape the global regulatory reform agenda.

Over the financial year, IOSCO has established dedicated taskforces focusing on areas that are key to restoring market confidence, including regulation of short selling, OTC markets, credit rating agencies, securitisation and hedge funds. Each taskforce is developing high-level principles to guide a consistent global approach to addressing the issues and weaknesses identified by the global financial crisis.

ASIC has contributed to each stream of work and has co-chaired the IOSCO taskforce on Unregulated Financial Markets and Products.

Summer School

In February 2009, ASIC hosted our 14th ASIC Summer School in Sydney, a conference dedicated to the 'Global crisis: the big issues for our financial markets'. Participants came from all over Australia and internationally to discuss and debate the challenges and issues. We looked back on what went wrong and lessons learned and then looked forward to rebuilding confidence.

The Summer School is an important forum promoted by ASIC to broaden public policy debate. Read the report of the ASIC Summer School at www.asic.gov.au/summerschool.

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ASIC gets closer to the market

While the issues emerging from the global financial crisis have influenced our priorities and achievements, the financial year has also been a time of consolidation for ASIC.

The new ASIC structure has been in place since 1 September 2008 and sees our real economy teams clearly focused on stakeholder services and delivering public register and registration functions. Our 12 financial economy stakeholder teams, with strong industry and regulatory experience, are focused on ensuring compliance with the law, while our eight specialised deterrence teams have brought sharper focus to the investigation and prosecution of serious misconduct. Each team is led by a senior executive leader, 36% of whom were recruited externally from the market.

We have made a significant investment in market research and economic analysis to better identify emerging issues and monitor real-time changes in the markets. We've appointed an External Advisory Panel of senior

industry professionals to help give us a deep understanding of market developments and potential systemic risks.

We have struck a better balance between national and regional priorities by appointing new ASIC Regional Commissioners – a valuable source of local on-the-ground knowledge of key developments and issues.

New Commissioners

At the same time, the Government's support of ASIC has been important in giving ASIC the resources it needs to carry out its broad functions. In February, the Government announced three additional highly regarded ASIC Commissioners: Michael Dwyer, Greg Medcraft and Peter Boxall. Michael brings extensive experience as a chartered accountant and an insolvency practitioner with a strong international knowledge of financial and operational restructuring. Greg brings investment banking and international experience in capital and banking markets. Peter brings public sector experience as Secretary of the Department of Resources, Energy and Tourism, following six years as Secretary of the Department of Employment and Workplace Relations and five years as Secretary of Finance and Administration with the Australian Government. I am pleased that they have joined us as Commissioners.

We are confident that the new ASIC is delivering and will continue to deliver better results for the community.

Our people

ASIC has continued to grow our staff numbers and has sought to attract new talent with relevant industry experience to complement our existing talent and skill base. We continue to

focus on building credentials for our professions across ASIC, particularly lawyers, accountants, auditors and investigators.

ASIC's credential building program is built on the premise that strong professional knowledge and skills will underpin our ability to effectively deliver on our strategic priorities.

Our corporate social responsibility program gives our people the opportunity to help others. In the financial year, they raised over \$87,000 for community organisations from Pink Ribbon days to the Victorian Bushfire Appeal, where staff at our Traralgon client contact centre in Victoria gave generously to support their local community at a time of great personal stress from the fires. To help build a strong sense of community, we launched our volunteering program in September 2008. In recognition of the benefit ASIC volunteers bring to their local communities, ASIC staff are entitled to one day per year of volunteering leave. In these and many other ways, ASIC people are making important contributions to the wider community.

Next year

For financial year 2009–10, ASIC will continue to focus and deliver on the priorities outlined in this report. In next year's report we will continue to report on our achievements against these priorities.

Finally, and most importantly, on behalf of the Commission, may I thank all our stakeholders for their support during the year. In particular thank you to our staff for your dedication and commitment in delivering the achievements in this report.

FINANCIAL SUMMARY

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

	2008–09	2007–08	2006–07
Operating expenses			
Total	\$295m	\$274m	\$256m
Annual change	+8%	+7%	+17%
Fees and charges raised for the Commonwealth			
Total	\$552m	\$545m	\$519m
Annual change	+1.3%	+5%	-4%

Raised for the Commonwealth

ASIC raised \$552 million for the Commonwealth in fees and charges, consistent with last financial year.

ASIC expenses increased to \$295 million to sustain operations, enhance ASIC's monitoring and enforcement capabilities, and implement initiatives to address the global financial crisis.

Employee expenses, ASIC's largest outlay of \$177 million, increased 7% reflecting ASIC's focus on resourcing its new stakeholder and deterrence teams in order to deliver on the outcomes of the ASIC Strategic Review.

\$552 million raised for the Commonwealth in fees and charges, consistent with last financial year

Appropriations and revenue

ASIC received \$308 million in appropriations and \$6.5 million in revenue from the sale of services, interest and other sources, including \$1.75 million in recoveries for court and investigation costs.

ASIC's \$19.8 million surplus is largely a result of a timing difference between the recognition of appropriation received and expenditure on a significant IT project (STAR Program).

The unspent appropriation will be used in future financial years to fund this initiative.

In the Portfolio Additional Estimates for the financial year, ASIC received additional funding of:

- ♦ \$66.7 million for implementing a national approach to regulating consumer credit; and
- ♦ \$30 million for the global financial crisis.

See ASIC's financial statements on page 84.

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, ASIC delivered four outputs.

Employee expenses, ASIC's largest outlay of \$177 million, increased 7% reflecting ASIC's focus on resourcing its new stakeholder and deterrence teams

ASIC outputs*

	2008-09	2007-08	Change
1. Policy and guidance about laws administered by ASIC, pages 52 and 53.	\$19m	\$18m	0%
2. Comprehensive and accurate information on companies and corporate activity, page 54.	\$59m	\$47m	25%
3. Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity, page 55.	\$69m	\$68m	1%
4. Enforcement activity to give effect to the laws administered by ASIC, page 56.	\$148m	\$141m	5%
Total	\$295m	\$274m	8%

* Internal service costs are apportioned to these outputs.

Expenditure levels were maintained in outputs 1 and 3. The expenditure increases in outputs 2 and 4 are due largely to expenditure associated with IT investment as part of the STAR program.

REGULATING DURING MARKET TURBULENCE

Financial markets were highly volatile in the 2008–09 financial year, both globally and in Australia. Across the world, financial conditions generally deteriorated for the first eight months of the year as actual and expected global economic conditions worsened, before recovering somewhat once some signs of ‘green shoots’ or at least a lesser pace of economic decay were observed in the final months of the financial year. Australia fared better than most, both financially and economically, but was not spared from considerable pain.

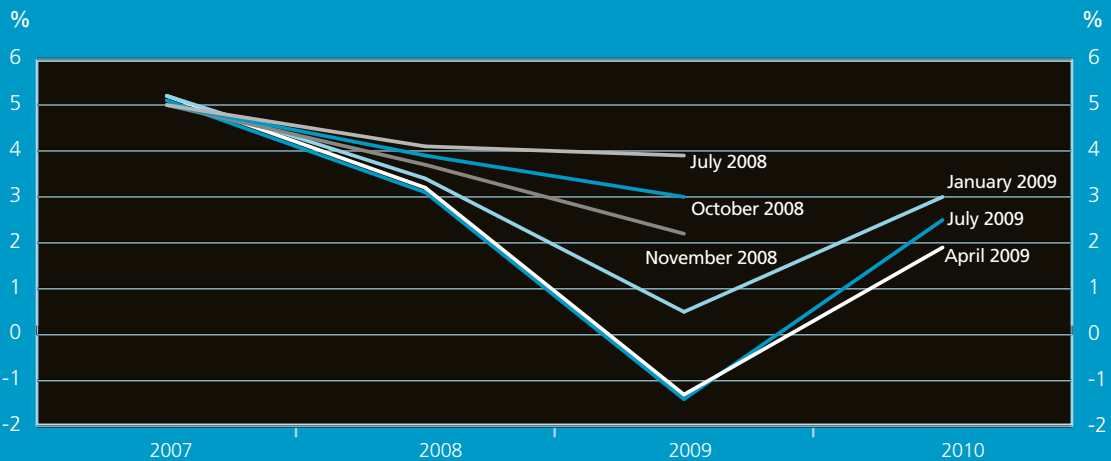
The problems facing the US financial system during 2007–08 intensified in the September quarter 2008 when a swathe of US financial institutions encountered catastrophic difficulties. The escalating crisis and erosion of investor confidence immediately spilled over to Europe and the world. Key financial markets became dysfunctional, threatening the solvency of large parts of the global banking system and arousing fears of deflation and depression.



Alex Erskine, Chief Economist

Financial markets were highly volatile in the 2008–09 financial year, both globally and in Australia.

IMF global real growth outlook for 2009 and 2010



Source: IMF

This rising threat led to unprecedented action on the part of governments and monetary authorities throughout the world, most notably in the US, the UK and the Euro area, aimed at stabilising the world financial system. The IMF estimated that, as of April 2009, authorities in the US, the UK and the Euro area had provided around US\$8.9 trillion in financing support to the financial sector.

The financial problems quickly spilled over into the real economy, with sharp falls registered in global industrial production, inventories and trade in the December and March quarters. This prompted worsening forecasts of global recession in 2009 even in the face of substantial additional measures to stimulate demand and GDP growth. More recently, confidence in a forecast global economic recovery in 2010, albeit subdued, is increasing.

Between late September 2008 and early March 2009, global financial markets tumbled as investors sought to protect wealth in the face of deteriorating financial and economic conditions. Though Australia's economic performance did not deteriorate as sharply as in many other countries and its prospects remain brighter, the All Ordinaries Index of stocks listed on the ASX fell by 33% between late September 2008 and early March 2009 as profit expectations and retail and institutional investor confidence declined. This fall was similar to the falls in stock markets in the US (the S&P 500 fell 42%), the UK (the FTSE 100 fell 28%) and Europe (the DJ Euro STOXX fell 40%).

During this period, the strain in credit markets also intensified. As one example, the stock of asset-backed commercial paper (ABCP) nearly halved between mid-2007 and the end of 2008, with the spread over the bank bill rate rising from 5 basis points to 65 basis points over that period. Issuance of residential mortgage-backed

US S&P 500 and Australian All Ordinaries

S&P 500 Index

ASX All Ordinaries Index



Source: Bloomberg

REGULATING DURING MARKET TURBULENCE (CONTINUED)

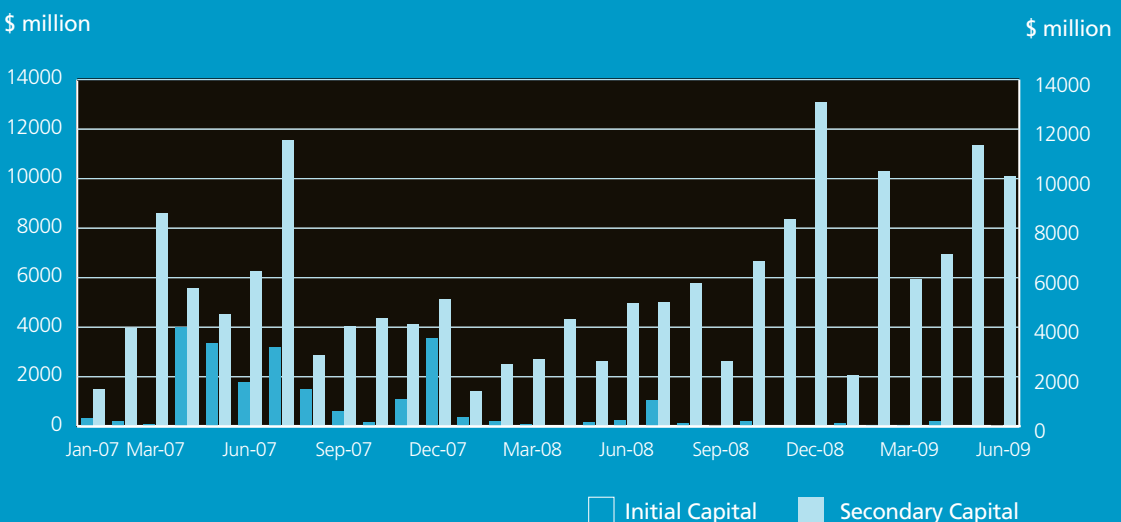
securities (RMBS) remained low, despite direct purchases after October 2008 by the Australian Office of Financial Management. To support the banking system, from late November 2008 the Government offered to guarantee Australian banks' wholesale funding and deposit liabilities.

By early March, conditions had stabilised sufficiently for investors to begin returning to equity markets. Between early March and the end of June, the All Ordinaries Index rose by 27%, and market capitalisation rose by \$258.5 billion, or 29%. With debt funding both costly and difficult to access, Australian companies sought funding via capital raisings on the equity markets. In the full financial year, Australian listed companies raised \$88.1 billion in capital in secondary raisings, an increase of 74% over the previous year, through rights issues, placements and share purchase plans. Conditions facing companies seeking to make initial public offerings were more difficult raising only \$1.9 billion, down 83% from the previous year.

In 2008–09, Australian listed companies raised \$88.1 billion in capital in secondary raisings, an increase of 74% over the previous year.

In 2008–09, market pressures intensified on companies with complex structures and geared business models. Companies such as Octaviar (formerly MFS), Allco Finance Group, ABC Learning Centres, Babcock and Brown, Great Southern and Timbercorp all entered external administration. At their peak, these companies had enjoyed a combined market capitalisation of \$23 billion. Many other companies suffered significant share price falls, and overall market capitalisation declined by more than \$316 billion over the year, diminishing the wealth of investors.

IPOs and secondary capital raisings



Source: ASX

Retail investors suffered from losses in their direct and indirect investments in the stock market, in some managed investment schemes and from the suspension of redemptions from a number of mortgage funds. Many responded by taking out term deposits with authorised deposit-taking institutions.

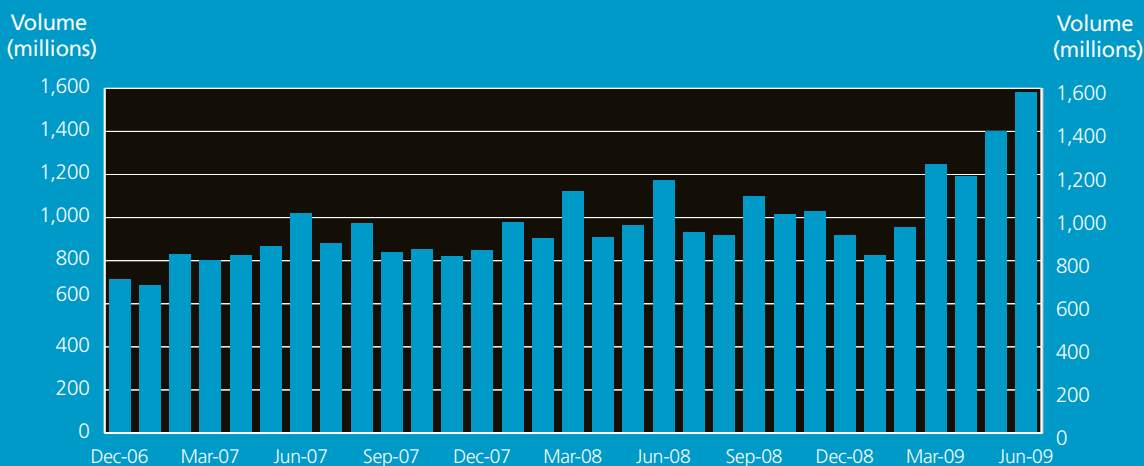
Share market trading volumes were variable, falling from a daily average of 1,100 million in September 2008 to a low of 824 million in January 2009, before recovering to 1,582 million in June 2009. Total trading volumes in 2008–09 were 17% higher than in 2007–08.

By the end of June, the prospect of an improving global economy was reflected in a more positive sentiment in financial markets. The Australian equity market had rebounded considerably from its lows in March when risk aversion was at its peak. This decrease in risk aversion was also reflected in government bond yields and in the

In 2008–09, market pressures intensified on companies with complex structures and geared business models.

interbank lending market. Credit markets also continued to improve, with aggregate measures of Australian credit spreads almost back to the level prevailing before the failure of Lehman Brothers in September 2008.

Average daily trading volume by month



Source: Bloomberg

MAJOR ENFORCEMENT: SUMMARY AND ACTIONS

Criminal prosecutions

This year, in collaboration with the CDPP, we completed 39 criminal proceedings, with 34 criminals convicted, including 19 jailed. We completed 35 civil proceedings and obtained over \$14.5 million in recoveries, costs and fines, with \$13.8 million in assets frozen for investors and creditors. ASIC's enforcement actions led to two convictions for market manipulation.

More detail on ASIC's enforcement actions is provided in the review of ASIC's six priorities (see pages 20–47).

James Hardie

Ten persons who were directors or executives of James Hardie Industries Ltd (JHIL, now known as ABN60 Pty Ltd) were disqualified by the Court from managing a corporation for periods ranging from 15 years to 5 years and were ordered to pay pecuniary penalties ranging from \$350,000 to \$30,000.

James Hardie Industries NV was also ordered to pay a pecuniary penalty of \$80,000.

The Court held that each director and executive had contravened a statutory duty of care and diligence in respect of matters relating to the approval of a draft ASX announcement by JHIL concerning asbestos liability. It was found that the draft announcement was misleading.

Some of the defendants have stated that they intend to appeal the Court's decision.

Opes Prime

Following mediation initiated by ASIC and the Opes Prime liquidators, schemes of arrangement between several Opes Prime companies and their creditors were agreed to by the requisite majority of creditors and approved by the Federal Court.

Under the schemes and related agreements, approximately \$253 million will be contributed to Opes Prime by ANZ and Merrill Lynch and from property held by receivers appointed by ANZ, resulting in an estimated return of

37 cents in the dollar to Opes Prime creditors. ASIC agreed not to pursue certain civil actions against ANZ and Merrill Lynch on condition that the settlement embodied in the schemes was implemented.

Arising from its Opes Prime investigation, ASIC has also accepted an enforceable undertaking from ANZ that requires it to remedy deficiencies in operational procedures affecting its custodial services.

Investigations into the conduct of certain officers of Opes Prime companies are continuing.

Westpoint

ASIC is seeking to recover losses of over \$300 million. We are conducting proceedings against persons alleged to have been directors of Westpoint mezzanine finance companies claiming an aggregate amount in the order of \$273 million. We continue to pursue civil proceedings against various financial planners and against a trustee company.

ASIC commenced legal action against KPMG over its auditing of certain Westpoint group companies seeking damages. ASIC accepted enforceable undertakings from three KPMG partners under which they have agreed not to practise as registered auditors for periods ranging from nine months to two years.

During the financial year a further 16 licensed financial advisers who recommended Westpoint products were banned.

Fortescue Metals

ASIC's civil proceedings against Fortescue Metals Group Ltd (FMG) and its CEO, Andrew Forrest, were heard by the Federal Court in April and May 2009. Judgement has been reserved.

ASIC alleges that FMG failed to comply with its continuous disclosure obligations under the Corporations Act and engaged in misleading or deceptive conduct concerning ASX announcements. It is alleged Mr Forrest was involved in FMG's continuous disclosure

contravention and breached his duty as a director by failing to ensure FMG complied with its obligations under the Act. ASIC claims the conduct of FMG and Mr Forrest resulted in the market being seriously misled from August 2004 to March 2005 about the nature and effect of Framework Agreements with three state owned Chinese companies. FMG and Mr Forrest deny the allegations.

AWB

In December 2007 we commenced civil proceedings against six former officers of AWB for alleged breaches of duty owed to AWB. Five of those proceedings have been stayed by the Court pending finalisation of criminal investigations.

The civil proceeding against Andrew Lindberg has been set down for trial in October 2009.

Chartwell Enterprises

Chartwell Enterprises Pty Ltd, a Geelong based company, operated a financial services business without an Australian financial services licence and collapsed in April 2008 owing approximately \$80 million to about 350 investors.

ASIC conducted an extensive investigation into the affairs of Chartwell. This resulted in Chartwell and other related companies being placed into administration and/or liquidation. Two officers of the company are now facing court on numerous criminal charges. Mr Ian Rau faces 19 charges. Mr Graeme Hoy faces 224 charges; 148 of the charges are state offences alleging obtaining a financial advantage by deception involving in total an amount in excess of \$25 million.

ASIC continues to work closely with liquidators appointed over Chartwell and other related entities. The liquidators have been granted funding from ASIC's Assetless Administration Fund to undertake further investigations and to report their findings to ASIC. Their investigations will also consider the conduct of intermediaries who introduced investors to Chartwell.

This year, in collaboration with the CDPP, we completed 39 criminal proceedings, with 34 criminals convicted, including 19 jailed.

Fincorp

There is an ongoing investigation into the collapse of Fincorp.

Storm Financial

ASIC is investigating a range of issues relating to the financial advisory business conducted by Storm Financial Ltd, including the financing arrangements offered to clients of Storm.

One.Tel

ASIC commenced proceedings against certain directors of One.Tel in December 2001 for breach of directors duties relating to the collapse of that group in 2001. Judgement is reserved in the case.

Liquidator (Stuart Ariff) banned for life

Mr Stuart Ariff, an official liquidator, from NSW, was found to be unfit to be an official or registered liquidator and prohibited from holding the office of liquidator, provisional liquidator, voluntary administrator, administrator of a deed of company arrangement or controller, for life.

MAJOR ENFORCEMENT: SUMMARY AND ACTIONS (CONTINUED)

Convictions

18 jailings* and 8 suspended sentences

Financial services related

- ♦ Robert Wilson misappropriated over \$119,000 from clients and insurance premium funder: 1 year 6 months
- ♦ Scott Dawson dishonestly caused a detriment to six of his clients of almost \$127,000: 3 years 6 months
- ♦ Michael Cay[†] deceived investors of over \$475,000: 4 years
- ♦ Robin Poumako issued 22 debentures to investors who loaned about \$1.2 million: 2 years 6 months
- ♦ Karl Veljkovic misused superannuation funds: 2 years 6 months, fully suspended
- ♦ Neil Austin Burnard obtained a financial advantage for five Westpoint mezzanine companies by making or publishing statements that he was a director of 'Kebbel Investment Bank'. This entity did not exist: 12 months, fully suspended
- ♦ Anthony Ryan dishonestly used his position as a director of an insurance broking firm to gain an advantage for himself and also engaged in dishonest conduct in relation to a financial product: 3 years 6 months, fully suspended
- ♦ Spartaco Fasciale lost over \$250,000 of investors' money trading on futures contracts and used investors' money to cover his own lifestyle expenses. He did not hold an Australian financial services (AFS) licence nor was he authorised to represent an AFS licensee: 6 years

Investment fraud

- ♦ Richard Sharland dishonestly gained an advantage of \$437,688 from 20 superannuants who invested in his investment scheme: 4 years 6 months
- ♦ Robert Bassili received \$200,000 from investors but failed to invest the money and omitted to account for a further \$105,000 raised from two investors: 3 years 6 months
- ♦ John Tsingaris misappropriated over \$160,000 from 20 investors: 2 years 6 months
- ♦ Keith McCoy forged cheques: 3 years
- ♦ Adrian Camilleri for fraud: 21 months

Dishonest company directors and officers

- ♦ Darryl Loane dishonestly obtained a loan of \$4.7 million: 8 years
- ♦ Claire Horsman falsely represented a company's financial position to ensure the continuation of financial facilities: 2 years 6 months
- ♦ Timothy McKenzie obtained a financial advantage by deception: 4 years
- ♦ Peter Braun engaged in dishonest conduct: 2 years 8 months
- ♦ Ashraf Kamha failed to act honestly in the exercise of his powers and discharge of his duties and was privy to the fraudulent altering of a book: 6 months, fully suspended
- ♦ Kevin Pollock[†] conviction related to a revolving line of credit facility arrangement: 3 years 4 months, fully suspended

Insolvency

- ♦ Marcel Shears failed to complete 200 hours community service imposed in July 2007 after he was found guilty of insolvent trading: 4 months
-

Insider trading

- ◆ Mukesh Panchal engaged in insider trading: 2 years

Market manipulation

- ◆ Richard Wade engaged in market manipulation: 15 months, fully suspended
- ◆ Rocco Musumeci engaged in market manipulation: 7 months, fully suspended

Operating an unregistered MIS

- ◆ Gregory Nathan[†] engaged in dishonest conduct and obtained money by making false and misleading statements: 7 years
- ◆ Patricia Jenkins dishonestly gained a financial advantage of \$132,000: 2 years 6 months
- ◆ Richard Harris was involved in the operation of an unregistered MIS involving approximately 200 people: 18 months, fully suspended

* One additional jailing was a civil action

† Under appeal

Bannings, cancellations, suspensions, disqualifications, 2008–09

S920A financial services bannings

Up to 3 years	9
Over 3 to 5 years	11
Over 5 to 10 years	10
Permanent	12
Total	42

AFS licence cancellations/suspensions

Licence cancelled or suspended	5
--------------------------------	---

S206F director disqualification orders

Up to 3 years	24
Over 3 to 5 years	25
Total	49

We completed 35 civil proceedings and obtained over \$14.5 million in recoveries, costs and fines, with \$13.8 million in assets frozen for investors and creditors.



PRIORITY 1

ASSIST AND PROTECT RETAIL INVESTORS AND FINANCIAL CONSUMERS

The financial year 2008–09 was the most difficult year in more than a decade for retail investors and consumers. ASIC has seen the impact of the global financial crisis on Australian markets with share prices falling by 26% over the course of the financial year. And between September 2007 and March 2009 the value of superannuation assets fell by 13%, on paper at least.

As a result, investor confidence has suffered with some retreating from the market.

ASIC has focused its consumer and investor work on:

1. recovering funds associated with several failed investments
2. improving product disclosure and
3. supporting financial literacy in the community

1. RECOVERY ACTIONS AND RECENT COLLAPSES

ASIC acted vigorously to enforce the law and seek compensation for retail investors involved in failed investments associated with the Westpoint Group and Opes Prime.

ASIC is using its power under s50 of the ASIC Act to conduct civil proceedings for damages for investors in cases where it considers that such proceedings are in the public interest.

ASIC is also actively examining recent collapses involving retail investors in organisations such as Storm Financial, Great Southern and Timbercorp.

... investor confidence has suffered with some retreating from the market.

Opes Prime

On 6 March 2009, ASIC agreed to provide the necessary releases to allow a settlement offer to be put to Opes Prime clients. Under the terms of the mediated settlement (initiated by ASIC) it agreed not to pursue certain actions against ANZ and Merrill Lynch, on the condition that the offer was approved by Opes Prime's creditors and the Court. This was achieved following the end of the financial year when the creditors of Opes Prime voted in favour of the settlement, which is by way of schemes of arrangement, on 24 July 2009 and the Court approved the schemes on 4 August 2009. The settlement is expected to deliver a sum of \$253 million into the schemes, resulting in a return of around 37 cents in the dollar to creditors of Opes Prime, which includes the clients. ASIC's major objective in encouraging the mediation was to recover compensation for investors without the need for costly litigation and multiple actions.

ASIC has also put in place an enforceable undertaking from the ANZ in relation to its investigation into the ANZ Custodial Services. The undertaking requires ANZ to complete a program to remedy deficiencies in operational procedures across the ANZ Custodial Services business, including its securities lending operations.

ASIC's investigations arising from the collapse of Opes Prime are ongoing. These investigations include consideration of the conduct of directors and officers of Opes Prime, both in relation to the operation of the business and in the period immediately before the collapse.

ASIC is considering whether any parties may have engaged in market misconduct, either at the time of the Opes Prime collapse or when the company was placed into liquidation.

Westpoint

ASIC has continued its comprehensive efforts to recover compensation for the benefit of Westpoint investors who sustained losses in excess of \$300 million following the collapse of Westpoint.

A settlement was reached in the class action brought by ASIC against Masu Financial Management Pty Ltd on behalf of 85 investors who were sold financial products in the Westpoint Group. This class action is the first of those proceedings to be resolved.

ASIC commenced action in the Supreme Court of Victoria against accountancy firm KPMG over its auditing of companies in the Westpoint Group. The claims are for negligent conduct by KPMG and are in the order of \$200 million.

ASIC is also conducting Federal Court proceedings against individuals who were appointed as, or are alleged to have been, directors of nine Westpoint mezzanine finance companies. The claims relate to the way in which they handled money invested in the Westpoint mezzanine companies.

ASIC has continued to carry on class actions against a number of financial planners in the Federal Court. The crux of ASIC's claims is that the financial planners were negligent and breached the conditions of their AFS licences when recommending and selling Westpoint investments.

ASIC is also conducting an action on behalf of investors in the Federal Court against State Trustees Limited. These proceedings commenced in March 2008. The action claims that State Trustees Limited breached its duties to the holders of mezzanine notes and its obligations under the Act and seeks to recover \$17.9 million for investors.

ASIC has also:

- ♦ obtained court orders for a global mediation of all remaining compensation actions.



Westpoint investors are kept informed of how the legal actions taken by ASIC to retrieve funds might personally have an effect. Their site is accessible from www.asic.gov.au/westpoint

The mediation commenced in June 2009 and the appointed mediator is the Hon. Ian Callinan AC QC

- ♦ banned a further 16 licensed financial advisers who recommended Westpoint products, including one corporation banning, and
- ♦ obtained a criminal conviction on charges it brought against Mr Keith Rowntree, an unlicensed adviser.

The NSW Criminal Court of Appeal upheld the conviction of Mr Neil Burnard in relation to obtaining financial advantage by raising Westpoint funds. ASIC's appeal regarding the leniency of Mr Burnard's 12 month fully suspended sentence and \$50,000 fine was dismissed.

To assist investors, ASIC:

- ♦ launched, in December 2008, a new investors only website containing personalised information for them about each of their investments. This website keeps them up to date on how ASIC's legal actions to retrieve funds might personally affect them. This personalised website is an extension of the information on the Westpoint investor website open to public access, which launched in October 2008: www.asic.gov.au/westpoint
- ♦ appointed a dedicated Westpoint liaison officer to help investors with any queries they have about ASIC's actions or other issues about the Westpoint collapse.

Better access to dispute resolution schemes

In May 2009, ASIC improved consumer access to dispute resolution schemes so that disputes can be resolved more quickly and efficiently, saving time and money for industry and consumers.

From 1 January 2010, all schemes will be required to deal with claims worth up to \$500,000 and from 1 January 2012, the claims limit (cap) for the maximum amount payable will be a minimum of \$280,000. External dispute resolution schemes will also be able to award interest in addition to compensation awards.

The increase in claims limits and compensation caps in these schemes will ensure that many more consumers and retail investors will be able to bring their claims to these schemes, avoiding the expense of litigation.



Money shows are an opportunity for consumers and investors to ask ASIC staff questions. They can also pick up a FIDO showbag containing booklets on such topics as superannuation, getting financial advice, complaining and managing their money.

2. IMPROVING PRODUCT DISCLOSURE AND ACCESS TO ADVICE

ASIC has extended its work on unlisted and unrated debentures by producing companion investor guides for the unlisted mortgage scheme and unlisted property fund sectors. The investor companion guides are aimed at improving disclosure to retail investors so they are:

- ♦ better informed about the nature of these products, and
- ♦ able to compare the relative risk and return of unlisted mortgage and property funds.

A benchmark-based disclosure model, reflecting the different risk profile and legal structures, has been introduced for unlisted mortgage schemes. As with unlisted and unrated debentures, unlisted mortgage scheme issuers need to disclose against the benchmarks on an 'if not, why not' basis. Eight disclosure principles now need to be prominently disclosed to existing and potential retail unlisted property trust investors.

Superannuation

ASIC has a number of programs dedicated to building confidence in superannuation. At their heart, these programs promote the confident and informed participation by members.

Industry input is essential to achieving this and ASIC is working with stakeholders as the superannuation landscape rapidly evolves.

Shorter PDS disclosure for superannuation

The Government has identified a range of priority areas for reform in superannuation, including shorter disclosure.

ASIC believes disclosure documents should be effective tools in communicating with investors and should deliver clear and concise information to them. It is important that consumers are able to use these documents to easily compare products so they can make better decisions about which products best suit their needs.

ASIC is working with the Financial Services Working Group (FSWG) to achieve clear, simple and readable disclosure documents that assist investors in making informed investment decisions. The FSWG has members drawn from ASIC, Treasury and the Department of Finance and Deregulation.

Agricultural MIS

In the area of agricultural managed investment schemes (MIS), ASIC acted to help retail investors better understand the risk and rewards being offered.

ASIC successfully requested improved disclosure for 12 managed schemes operated by the 7 largest participants in the sector. Better disclosure was required to address the risk that investments might be adversely affected if the responsible entity encounters financial difficulty; the risk associated with the MIS operator's reliance on annual MIS sales to provide working capital; and information about historic yields from other similar MIS projects run by the operator.

In agreeing to provide updated disclosure, MIS operators were required to give previous applicants the opportunity to withdraw their applications.

In May 2009, ASIC improved consumer access to dispute resolution schemes so that disputes can be resolved more quickly and efficiently.

Improving access and quality of advice

In the past financial year financial advisers lost approximately 215,000 clients, mainly due to poor performance of their investments and perceived lack of quality advice. ASIC's dual objective is to promote the acquisition of financial advice by consumers (that is to increase access to advice) and drive improvements in the quality of advice. In turn this will promote rational and informed financial choices by investors and consumers, which will contribute to improved confidence in the advice industry.

To achieve this, ASIC is researching the quality of advice given to retail clients and the factors that affect this so it can find out how to improve advice. It also has a major project to consider ways of improving access to advice. In addition, ASIC has worked closely with the Financial Planning Association on their sample Statement of Advice to assist financial advisers to understand how to give advice in a way that enables clients to understand advice in a simplified format while also ensuring that it is appropriate to them.

Improved banking services

Switching bank accounts to get a better deal was made easier after a new account switching service started on November 1. The new service is embedded in the EFT Code of Conduct, which ASIC administers, and is expected to promote competition in banking services. The service encourages consumers to shop around for the transaction account that offers the best value for money and could mean switching to a transaction account that offers lower fees or even no fees.

Between June 2007 and December 2008, term deposits in ADIs grew by 50% and is now over \$500 billion, making them one of the most widely used investments in Australia. This growth has been driven mainly by investors reassessing risk-reward premiums in favour of ADI-backed deposits.

It prompted ASIC to release a term deposit guide which reminds investors and consumers of issues to consider when investing in term deposits. It also commits ASIC to undertake a 'health check' of marketing and disclosure around term deposits in 2009.

3. SUPPORTING FINANCIAL LITERACY IN THE COMMUNITY

ASIC assumed responsibility for promoting financial literacy at the Commonwealth level on 1 July 2008. This brought together the work done by ASIC and the Financial Literacy Foundation to improve the financial literacy and financial decision making of all Australians.

As part of this work, ASIC hopes to embed the quality teaching of financial literacy in schools and increase the take-up of financial literacy options in further education and workplace learning programs, including small business offerings.

ASIC has developed resources for school students such as *Your money starter*, an interactive educational resource that gives young Australians an understanding of how to save for retirement through superannuation and protect their assets using insurance.

To better co-ordinate the delivery of effective programs across different sectors, ASIC has established a cross-sectoral Financial Literacy Community of Practice for stakeholders.

Regulating credit

In July 2008, the Council of Australian Governments recommended the Commonwealth take over responsibility for regulating consumer credit. The draft *National Consumer Credit Protection Bill*, proposes that home loans, personal loans, credit cards, overdrafts, line of credit accounts and various other credit products and services, will be regulated under Commonwealth legislation and administered by ASIC.

ASIC is well advanced in preparing for its new responsibility. Immediate focus is on the processes and capabilities needed to register,

license and regulate the credit businesses that are expected to move to the new regime from 1 November 2009.

ASIC has consulted closely with Treasury and the state administrations in developing the policy and legislation and is consulting with industry, consumers and other stakeholders through that process.

An education plan has been developed and resources are being created to educate the broader Australian community, especially in regional areas.

Indigenous Outreach Program

ASIC works closely with Indigenous communities to help empower Indigenous consumers to make informed decisions. Together with the National Indigenous Radio Services, ASIC develops and distributes radio programs such as *Money Talks* – a series of short radio segments about making sound decisions about money. ASIC also continues to promote and refresh its publications for Indigenous consumers such as *Super and us mob* and in the past year, published a new guide *Paying for funerals: Tips for Indigenous consumers*.

ASIC also runs financial education workshops in remote communities including Galiwinku, Nguuu, Katherine and Kalkarindji in the Northern Territory.

It has recently committed to an expansion of its Indigenous Outreach Program.

ASIC assumed responsibility for promoting financial literacy at the Commonwealth level on 1 July 2008

Professional learning for teachers

Since ASIC took over responsibility for financial literacy on 1 July 2008, over 2000 teachers have participated in professional learning to learn how to educate students on financial issues. This has been informed by a National Framework for Consumer and Financial Literacy, developed in 2005, that has guided curriculum officers in each state to integrate consumer and financial literacy into their curriculum.

All states and territories have provided professional learning for teachers using curriculum officers, whole school initiatives,

Investing between the flags

In 2009, ASIC launched, for testing, its 'Investing between the flags' campaign to equip retail investors, in particular retirees, with tools to enable them to protect their savings, understand the basics of risk and return and make informed financial decisions. With Centrelink's Financial Information Service we ran a pilot program of face-to-face education seminars on investing basics, targeted at baby boomers.



A Centrelink Financial Information Service officer presents ASIC's 'Investing between the flags' program.

professional associations, facilitators, conferences, web gateways, seminars and workshops.

The program has seen government and non-government schools working together.

Over 2200 support DVDs have been distributed to teachers across all states and territories since January 2009. At the same time, 500 facilitator guides with 12,500 supporting teacher guides have been distributed to teachers nationally.

Working with defence force personnel

ASIC helps the Australian Defence Force Financial Services Consumer Council develop financial literacy resources to use at every stage of an ADF member's career, including recruitment, pre-deployment, return and retirement. In the past financial year, ASIC conducted financial education seminars for around 1300 Australian soldiers returning from Iraq and Afghanistan.

ASIC moved quickly to help on disaster relief

ASIC moved quickly to respond to the 2009 Victorian bushfires and the Queensland floods. On the first working day after the fires, ASIC's FIDO website published information for victims. Topics included:

- ◆ how to claim on insurance
- ◆ what to do if ongoing commitments could not be met, for example, mortgage payments
- ◆ information from banks about arrangements to temporarily suspend loan repayments and waive some fees
- ◆ access to superannuation and life insurance, and
- ◆ links to additional sources of help, for example, the Financial Ombudsman Service, flood and bushfire hotlines, counselling services, the Australian Government Disaster Recovery Payment and the Insurance Council of Australia.

ASIC also published its approach to enquiries from victims who were unable to pay Corporations Act fees on time, or indeed at all. Requests for fee relief are considered on a case-by-case basis.

ASIC's liquidators and insolvency practitioners team gathered the support of Victorian-based insolvency professionals who were available, on a pro bono basis, to discuss issues with business owners and directors affected by the bushfires.

FIDO

ASIC's dedicated website for consumers and investors, FIDO (www.fido.gov.au), continued to be a popular source of independent information about finance and investor matters, receiving almost 1.5 million visits in the past year. New content added to the site included a reverse mortgages calculator, a first home saver account calculator, financial survival guides offering practical tips to help those in a difficult financial position, and a dedicated section for young people.

Equity release guidance

ASIC launched a guide to reverse mortgages and other equity release products. *Thinking of using the equity in your home?* educates people on the risks and benefits of these products and what to think about before investing in them.

Debt collection phone-in day

In July 2008, ASIC together with the Australian Competition and Consumer Commission held a phone-in day dedicated to debt collection issues. The joint initiative assisted consumers who had experienced problems with debt collectors or creditors. As more consumers felt the impact of the global financial crisis on household balance sheets, ASIC and the ACCC reminded businesses that while they are entitled to recover debts owed to them, they must conduct all collection practices in a proper and professional manner.

Insolvency: Assisting stakeholders affected by the GFC

In response to the global financial crisis, ASIC launched a new online portal specifically designed to meet the needs of stakeholders likely to be affected by corporate insolvency. Five stakeholder groups can access information at www.asic.gov.au/insolvency to help make decisions when dealing with insolvency and external administrations (e.g. voluntary administrations, liquidations, receiverships).

ASIC launched a new online portal specifically designed to meet the needs of stakeholders likely to be affected by corporate insolvency.

ASIC increased its focus on the need for company directors to comply with their obligations to prevent insolvent trading. It encouraged them to seek appropriate advice early about the financial position of their companies and, if necessary, to act on that advice by taking steps to minimise losses to creditors and investors. This is especially important because of the pressure companies are under due to the global financial crisis, and the increase in the number of companies being placed into insolvent administration (e.g. liquidation).

Consumer Advisory Panel

The Consumer Advisory Panel (CAP) continued to meet quarterly and play an important role in ASIC's consumer protection activities by significantly contributing to its understanding of consumer and investor issues. It advised ASIC on issues affecting consumers and retail investors of financial products and services, including:

- ◆ equity release products
- ◆ consumer credit and debt collection/harassment
- ◆ instalment units purchased through online brokers
- ◆ adviser remuneration models and conflict of interest issues, and
- ◆ issues affecting remote Indigenous consumers.

CAP members also gave input to ASIC's consumer protection policies and contributed to interactive discussion workshops on Indigenous issues, financial planning issues and consumer credit.

CAP membership is drawn from a diverse range of consumer and investor organisations and individual consumer advocates. It has an independent chair, Jenni Mack. Other members are:

- ◆ Australian Consumers' Association (Elissa Freeman)
- ◆ Australian Council on the Ageing (Ian Yates)
- ◆ Australian Financial Counselling and Credit Reform Association (Tricia Ross)
- ◆ Australian Shareholders' Association (Stuart Wilson)
- ◆ Consumer Action Law Centre (Vic.) (Carolyn Bond)
- ◆ Legal Aid Commission of NSW (David McMillan)
- ◆ National Information Centre on Retirement Investments (Wendy Schilg), and
- ◆ Financial Counsellor, Tangentyere Council (NT) (Leigh Shacklady).

ASIC would like to express its appreciation for the extraordinary contribution of Jan Pentland, who was a member of ASIC's Consumer Advisory Panel for many years, and more recently a member of the Australian Government Financial Literacy Board. Her guidance, advice and championing of the issues that impacted vulnerable financial consumers were invaluable as were her tireless efforts on behalf of financial counselling in Australia. Jan has sadly recently passed away and will be greatly missed.



PRIORITY 2

BUILD CONFIDENCE IN THE INTEGRITY OF AUSTRALIA'S CAPITAL MARKETS

It has been a volatile time for Australia's financial markets in 2008–09 and restoring confidence in our markets – facilitating capital raisings, encouraging investment and supporting our economic recovery – is a key priority for ASIC going forward. In the past year, ASIC has taken strong action to improve market integrity by targeting insider trading and market manipulation. And it has demanded a more transparent market by implementing short selling disclosure, enforcing continuous disclosure requirements in the listed and unlisted sectors and reinforcing the importance of reliable financial reporting. ASIC is working with the RBA and APRA to enhance the operational efficiency of Australia's over-the-counter markets.

Responding to false market rumours became an important element of ASIC's work during the financial year

Former gas company secretary guilty of insider trading

On 27 April 2009, former Queensland Gas executive and company secretary, Mukesh Panchal, was sentenced to two years in jail after pleading guilty to four insider trading charges. The charges followed an ASIC investigation into Mr Panchal's purchase of more than 400,000 Queensland Gas shares valued at over \$1.3 million in early 2008. Mr Panchal bought the shares while in possession of inside information about an alliance with British-based BG Group Plc that would have had a material effect on the price or value of Queensland Gas shares, had it been publicly available. Under the Proceeds of Crime Act, Mr Panchal was also required to pay \$322,155.50 to the Commonwealth, being an estimate of his gain in this transaction.

Insider trading and market manipulation

In the past year, ASIC has significantly increased its investigative work to pursue market manipulation and insider trading. It has increased resources and improved its detection, investigation and prosecution processes in this area.

It has also improved its dialogue with the ASX and the CDPP.

ASIC is now starting to see the results of this work. During the financial year ASIC:

- ◆ achieved one conviction for insider trading
- ◆ achieved two convictions for market manipulation
- ◆ laid two charges for insider trading against two persons
- ◆ laid four charges for market manipulation against four persons
- ◆ commenced a civil penalty action for market manipulation
- ◆ referred six new cases of insider trading to the CDPP for potential prosecution and referred three new cases of market manipulation to the CDPP for potential prosecution, and
- ◆ banned two brokers from the financial services business for insider trading; banned three brokers for market manipulation; and banned one for false representation (rumours). Three of these are under appeal.

The ASX conducts extensive market surveillance and refers suspicious conduct to ASIC. Our Marketwatch team will look for evidence to warrant formal investigation, and refer applicable cases to deterrence teams. Marketwatch also initiates its own inquiries.

Over the financial year, ASIC considered:

- ◆ 49 referrals for insider trading (of which 12 have been referred on for investigation already)

- ◆ 18 for market manipulation (10 referred on for investigation), and
- ◆ 26 for continuous disclosure (three referred on for investigation).

In addition, the Misconduct and Breach Reporting team followed up 901 complaints about markets issues during the financial year resulting in:

- ◆ 19 referrals for investigation, and
- ◆ over 60 referrals for specialist review within ASIC.

Rumourtrage

Responding to false market rumours became an important element of ASIC's work during the financial year. In falling markets, there is always a concern that short sellers will spread false rumours and then trade on the associated share price movement.

Through Project Mint, commenced in March 2008, ASIC has taken a broad approach to dealing with rumourtrage. It:

- ◆ conducted an extensive inquiry into numerous purported instances of rumourtrage, seeking trading records and email correspondence from many brokers
- ◆ initiated formal investigations of some conduct
- ◆ made detailed submission to the Government's Corporations and Markets Advisory Committee (CAMAC) seeking law reform, many points of which have been adopted in the formal CAMAC *Aspects of Market Integrity* Report of June 2009, and
- ◆ discussed, with listed entities, the management of confidential information.

During the year, ASIC started developing a set of guidelines for market participants handling of rumours. It will be issuing a consultation paper in the next financial year.

Restoring confidence in our markets – facilitating capital raisings, encouraging investment and supporting our economic recovery – is a key priority for ASIC

Improving market disclosure

ASIC expects all disclosing entities to meet their obligations to keep the market and investors informed. Keeping markets properly informed underpins confidence in the integrity of our markets and in doing so, assists in keeping the cost of capital low. ASIC made various statements in the year giving guidance on good disclosure – with particular focus on the theme of 'clear, complete and accurate'.

In June 2009, ASIC announced new measures to clarify how unlisted entities should continuously disclose information to investors. Its *Continuous disclosing entities* guide sets out good practice guidelines for website publication, including ensuring such information is easily posted as soon as practicable after it comes to the relevant entity's attention. The guide recognises that websites are often a very effective tool for communicating with investors.

In April 2009, ASIC's case against Fortescue Metals Group Ltd (FMG) for failure to comply with continuous disclosure obligations and engaging in misleading conduct, and against its CEO Andrew Forrest for his involvement in those contraventions, was heard in the Federal Court. ASIC claims the conduct of FMG and Mr Forrest resulted in the market being seriously misled from August 2004 to March 2005 about the nature and effect of 'Framework Agreements' with three state owned Chinese companies.

The court's decision in this matter is awaited.

Corporate governance

ASIC is in regular dialogue with the business community about issues of corporate governance. Particular stakeholders are the ASX Corporate Governance Council, Australian Institute of Company Directors, Chartered Secretaries of Australia and the Australian Shareholders Association.

ASIC has continued to pursue some significant litigation that will establish the obligations of corporate officers, and support its dialogue with the market.

James Hardie

On 23 April 2009, the New South Wales Supreme Court handed down its decision on ASIC's civil penalty proceedings against seven former non-executive directors and three former executives of James Hardie and against James Hardie Industries NV (JHINV, based in the Netherlands) and James Hardie Industries Limited (JHIL, the former Australian listed entity).

The Court's decision provides boardrooms with important guidance and direction on:

- ◆ the practical application of the scope and content of the duties of executives (chief executives, company secretaries and chief financial officers) when taking important matters to the board and disclosing those matters to the market; and
- ◆ the responsibilities of non-executive directors of public companies when asked by management to consider strategic matters and to approve disclosure to the market of the board's decisions.

Financial reporting and audit quality

Clear reporting by listed entities is a critical contributor to market and investor confidence. This year, ASIC continued its regular reviews of financial reports, and provided guidance about the statements of results and specific focus areas, that would be most affected by the economic conditions, such as going concern and valuation of assets.

ASIC's reviews of financial reports focused on areas impacted by the global financial crisis, including:

- ◆ going concern assessments
- ◆ impairment of assets
- ◆ fair value determination
- ◆ off-balance sheet arrangements, and
- ◆ financial instrument risk disclosures.

ASIC reviewed the financial reports of over 100 listed entities and announced that its next review will cover the financial reports of around 350 listed and unlisted entities.

Audit quality is an important contributor to quality financial reporting and market confidence. ASIC continued its program of inspecting firms that audit listed entities. The reviews focused on quality control and auditor independence. Working papers are reviewed for selected audits.

ASIC participates in IOSCO Standing Committee No. 1 on Multinational Accounting and Disclosure, and the International Forum of Independent Audit Regulators. Among their many activities, these groups are fora to exchange information on financial reporting and audit regulatory developments, including matters relevant to reporting and audit in the global financial crisis.

Assetless Administration Fund

The fund is a grant scheme that funds liquidators of companies that have little or no assets to investigate and report potential breaches of the law. During a year of economic downturn, applications to the fund increased by 40% over the previous year.

ASIC paid over \$2.8 million to liquidators for reports received during the financial year, and committed \$0.5 million for reports to be received in 2009–10.

Information on grants awarded by ASIC under the Assetless Administration Fund is available at www.asic.gov.au/aaf. Significant funded matters include Storm Financial, Chartwell Enterprises and Firepower Operations.

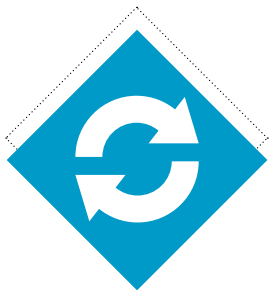
Over 100 listed entities reviewed and announced that next review will cover the financial reports of around 350 listed and unlisted entities.

Maintaining confidence in the insolvency system

A well functioning economy that encourages cross border investment in Australia relies on a strong system to enable investors and creditors to recover funds in the event of business failure.

ASIC has worked closely with insolvency practitioners involved in major corporate failures such as Allco Finance Group Ltd, ABC Learning Centres Ltd, Babcock & Brown Limited, Timbercorp Limited and Great Southern Limited. This close engagement has assisted insolvency practitioners deal with these complex engagements including the early reporting of alleged misconduct in specific circumstances. ASIC has intervened in a number of large corporate failures such as Lehman Brothers Australia Limited and Storm Financial Limited to assist policy and law clarification and to ensure the insolvency system operates appropriately.

ASIC is assessing compliance with the new insolvency laws and the quality and extent of disclosure that may impact on an insolvency practitioner's independence, which is critical to the integrity of the insolvency system. This is a national project involving the review of approximately 240 insolvency appointments. It commenced between 1 July 2008 and 31 January 2009 and spans 77 insolvency firms. It is expected that the findings will result in improved guidance for practitioners.



PRIORITY 3

FACILITATING INTERNATIONAL CAPITAL FLOWS AND INTERNATIONAL ENFORCEMENT

ASIC is working to reduce impediments to, and encourage capital flows into and out of Australia, while protecting Australian investors. By increasing access to international capital and investment opportunities, liquidity in Australian markets will be boosted, generating more competition, diversification and better overall returns for Australian investors. In the last 12 months, ASIC has worked with Singapore, the US, New Zealand and Hong Kong.

Australia-US Mutual Recognition

The Australian Government, ASIC and the US Securities and Exchange Commission (SEC) entered into a mutual recognition agreement on 25 August 2008. The agreement provides a framework for all three parties to consider regulatory exemptions that would permit eligible US and Australian stock exchanges and broker-dealers to operate in both jurisdictions, without the need for these entities to be separately regulated in both countries.

This is the first arrangement of its type that the US has entered into and will, over time, translate into increased liquidity, lower transaction costs, more competition and increased transaction efficiencies for companies in each of these markets.

A major benefit for Australia is that dealers in the US will be able to arrange trades by US retail investors in Australian stocks – currently such trades are confined to dual-listed companies.

The arrangement has the potential to give investors in both countries a broader range of options, at lower cost, and with the security of comparable protections.

The arrangement is a framework through which the SEC and ASIC can cooperate in supervising entities operating across borders. Further work is required to fully implement the arrangement. There have been delays during this financial year, because of changes in US administration and the global financial crisis. ASIC is continuing to advance this work with the SEC despite these delays.

Trans-Tasman Mutual Recognition

The New Zealand Securities Commission and ASIC continue to cooperate on cross-border securities issues including streamlining trans-Tasman capital raisings, assisting on enforcement, accounting and consumer literacy matters and participating in regional capacity building initiatives.

This year, the Trans-Tasman Mutual Recognition of Securities Offerings (MRSO) arrangement took effect. This arrangement allows issuers of securities to use one prospectus to offer shares, debentures or managed or collective investment schemes to investors on both sides of the Tasman. It has been used 182 times in Australia (by 44 Australian institutions) and 7 times in New Zealand by 7 New Zealand issuers. Managed investment schemes and issuers seeking to raise capital have made use of the arrangement.

Building on these achievements, ASIC and the NZSC have agreed to develop a work plan for the next three years focusing on:

- ♦ improving the operation of the MRSO
- ♦ developing a regulatory framework for the mutual recognition of advisers across the Tasman
- ♦ sharing information on stock exchange surveillance, and
- ♦ exploring joint ventures to support education and financial literacy.

Cooperation with international regulators

ASIC continued to work with the Indonesian capital markets supervisory agency, Bapepam-LK, to build and strengthen their regulatory capability. A senior ASIC staff member was again deployed to Jakarta during the financial year to work directly with the Indonesian regulator.

ASIC's regulatory surveillance and deterrence work increasingly requires information and evidence to be obtained from overseas. ASIC also assists foreign regulators by obtaining information and evidence in Australia for their investigations. ASIC's enforcement and surveillance requests to foreign regulators increased by 13% to 181.

ASIC remains committed to the International Organization of Securities Commissions (IOSCO). This year, ASIC made a significant contribution to IOSCO through its work on the Executive and Technical Committees, the Asia Pacific Regional Committee and by chairing the Taskforce on Unregulated Products and Markets (for further information, see Strategic Priority 4 on page 37).

Enhancing capital flows report

ASIC released its report, *Enhancing capital flows into and out of Australia*, on 31 July 2008. The report emphasises the importance of the free

flow of capital in providing wider investment opportunities for Australians, and minimising the cost of capital for domestic businesses.

It also details ASIC's mutual recognition work with some of the world's most significant markets and identifies three key areas where ASIC could most contribute to increasing investment into and out of Australia:

- ♦ maximising the use of recognition arrangements
- ♦ maximising and enhancing international cooperation arrangements, and
- ♦ facilitating cross-border financial services businesses.

In preparing the report, ASIC discussed impediments to international capital flows with leading financial stakeholders, including commercial and investment banks, asset consultants and fund managers.



About 50% of ASIC staff across Australia attended one of the 30 discussion sessions held with Tony D'Aloisio. These were a good opportunity for ASIC's Chairman and staff to talk in an informal atmosphere about some of the important issues facing ASIC. His presentation was framed around five themes: the Commission, operational issues, people and development, shared services and communication. After presenting each theme, questions and comments were invited with the last 30 or so minutes left for questions.



PRIORITY 4

MANAGE THE DOMESTIC AND INTERNATIONAL IMPLICATIONS OF THE GLOBAL FINANCIAL TURMOIL

Both international and domestic markets have continued to feel the impact of the global financial crisis (see page 12 for a description of economic and market developments in 2008–09).

Much of ASIC's work this financial year has focused on restoring market confidence by addressing the changes to our markets as a result of the global financial crisis, such as enhancing operational guidelines for over-the-counter derivative products.

In October 2008, ASIC announced measures to allow operators of frozen mortgage funds to allow early withdrawal for members when they are facing financial hardship.

In our capital markets, ASIC has targeted insider trading and market manipulation and demanded that companies meet their continuous disclosure obligations in an effort to improve trust, integrity and ultimately liquidity in the market. ASIC has also issued new measures and used its relief powers to facilitate capital raisings in these difficult times.

The downturn has left many retail investors exposed to lower household financial asset balances, including reduced balances for superannuation portfolios. ASIC has assisted investors facing financial hardship and has provided tools to help consumers manage credit in a downturn.

Short selling

ASIC's work on short selling is another example of ASIC taking decisive action to maintain the integrity of Australian financial markets.

In March and April of 2008, following a drop in the stock market, higher funding costs and an increase in margin calls on directors' shares, there was considerable pressure for ASIC to take action. ASIC examined the market and was satisfied that, at the time, the benefits of short selling, such as price discovery and market efficiency, outweighed any possible systemic issues. ASIC did not impose a ban, but together with the ASX, called for a short selling disclosure regime. The Government agreed.

In September and October of last year, the state of the international financial markets combined with continuing rumourage and a loss of confidence in our own markets, meant that a 'circuit breaker' was needed. We banned naked and covered short selling when similar international bans intensified the risks to the Australian market from potential predatory behaviour.

Covered short selling for non-financials re-opened from 19 November 2008. The interim daily gross short sales disclosure regime that ASIC developed with the ASX in September became operative.

But because of the potential systemic issues, covered short selling for financials remained closed until 24 May 2009 when ASIC lifted the ban. In ASIC's view, the balance had shifted back in favour of the enhanced price discovery and liquidity that comes with short selling.

ASIC has been assisted in exercising these powers with the recent Government legislation and by working more closely with APRA, the RBA and the ASX.

Superannuation 'no action' position

In November 2008, in response to the market downturn, ASIC wrote to industry associations to inform them that it will give 'no action' relief on application to super fund trustees to enable them to give limited guidance to members about switching between fund options. This temporary relief has largely been superseded by ASIC's long term initiatives around intrafund advice, which includes giving conditional relief from the suitability requirements in s945A to trustees that wish to give certain advice to their members about their existing interest in their super fund.

Responding to illegal early release activity in super

ASIC has also been alert to any increase in illegal early release activity and any possible slippage in employer compliance with superannuation obligations following the market downturn. Messages encouraging vigilance and early reporting of illegal early access schemes have been given to industry associations and the Superannuation team supports referrals to ASIC's deterrence teams when illegal early access schemes are identified.

In addition, the Superannuation team has been actively monitoring disclosure by trustees when underlying funds invested in by super trustees are frozen, affecting the solvency of defined benefit funds.

Much of ASIC's work this year has focused on restoring market confidence by addressing the changes to our markets as a result of the global financial crisis.

Helping investors facing financial hardship

In October 2008, ASIC announced measures to allow operators of frozen mortgage funds to allow early withdrawal for members when they are facing financial hardship.

Mortgage funds, along with other forms of unlisted investments such as unlisted property trusts, are an important source of investment capital to the economy. The risks and returns of some of these products were adversely affected by turbulent market conditions and a number of mortgage trusts 'froze' redemptions for a time.

ASIC used its relief powers to allow withdrawals from these funds if investors were facing financial hardship, including when they were unable to meet family living expenses, on compassionate grounds or in cases of permanent incapacity. This has highlighted the difficulty of balancing the interests of those with hardship against maintaining integrity of funds for all those who cannot withdraw.

Managing credit in a downturn

On 7 May 2009, ASIC, in conjunction with Consumer Affairs Victoria, released a report examining how lenders and mortgage brokers respond to borrowers experiencing financial difficulties.

The report, *Helping home borrowers in financial hardship* found that while some lenders are responding well to the needs of their customers, there is generally room for improvement. It also guides industry on how to improve practices.

The report examined industry practices in late 2008 and noted that there are already signs that some sectors are improving. On 5 April 2009, the Treasurer announced an agreement with four major banks in which they committed to assist borrowers who are experiencing financial difficulty as a result of the global recession. ASIC is confident that industry will welcome the guidance in the report and will continue to work with them to promote better outcomes for borrowers.

The report also sets out guidance on what borrowers can do to manage any financial difficulties they might be experiencing. This is supported by important information on borrowers' right and responsibilities on the FIDO website.

The new equity raising policies streamline the fundraising process and make it easier to include retail investor participation in fundraisings.

Facilitating equity raisings

In June 2009, ASIC introduced new measures to help facilitate capital raisings for firms in this turbulent market.

The new equity raising policies streamline the fundraising process and make it easier to include retail investor participation in fundraisings by expanding situations when a full prospectus or product disclosure statement is not required.

The policies allow listed companies, and managed investment schemes engaging in equity raisings, increased scope to update the market through continuous disclosure obligations and a 'cleansing notice' instead of the currently required prospectus or PDS.

ASIC adapted the law to allow:

- ♦ existing shareholders or unitholders to purchase further shares or units worth up to \$15,000 through share purchase plans without a prospectus or PDS
- ♦ listed managed investment schemes to make placements at a discount of more than 10% to the current unit price without member approval

- ◆ more rights issues and placements using a cleansing notice instead of a prospectus or PDS, even if a listed entity has been suspended for more than the current five day maximum period
- ◆ members to participate in accelerated rights issues and rights issue shortfall facilities even if they exceed the 20% takeover threshold by doing so, and
- ◆ a person to underwrite a dividend reinvestment plan even if they exceed the 20% takeover threshold by doing so.

International collaboration on GFC issues

ASIC has been active in all of the IOSCO committees and task forces established in late 2008 to address issues arising from the financial crisis. ASIC has worked towards outcomes that are measured, appropriate and contribute to restoring confidence in financial markets, while allowing Australia appropriate flexibility to develop responses for our markets.

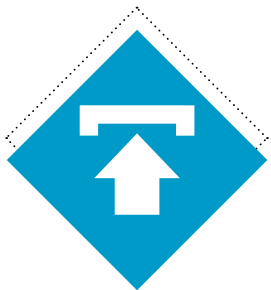
IOSCO has approved and published principles, based on the work of these task forces, to guide regulation of short selling and hedge funds.

ASIC co-chaired the IOSCO task force established to address regulation of key financial markets that are either unregulated or lightly regulated (specifically credit default swaps and securitisation). The task force's report will be published shortly and sets out guiding principles for regulating both of these sectors.

ASIC has also participated in IOSCO's task force on credit rating agencies (CRAs). In the last 12 months, the task force has reviewed the CRAs' code of conduct and developed a framework for international cooperation in supervising them. Together with the Australian Government, ASIC has used this to design and implement the local regulatory regime for CRAs, that takes effect shortly.

ASIC is also participating in a task force to develop principles to guide cooperation between regulators in supervising cross border activity.

Domestically, ASIC is working with Treasury and other agencies through the G20 Reform Implementation Committee to develop Australia's responses to these issues.



PRIORITY 5

LIFT OPERATIONAL EFFECTIVENESS AND SERVICE LEVELS FOR ALL ASIC STAKEHOLDERS

ASIC is focused on ensuring the efficient and cost-effective administration of the regulatory framework for which it is responsible. This includes:

- ◆ improving internal operations delivery
- ◆ simplifying interactions with stakeholders, and
- ◆ promoting the use of its ever-expanding online services.

ASIC is committed to international and domestic comparison and benchmarking of its activities because interactivity is rapidly increasing between regulators and government agencies.

The effects of the global financial turmoil have been reflected in the changing workload of ASIC's Real Economy team.

- ◆ Although our corporate register rose to over 1,700,000 registered companies for the first time, there were 8.7% fewer new companies registered this financial year compared to the previous year. ASIC also registered fewer notifications of charges over company assets (14.6% fewer this financial year). Registered companies lodged 4.1% fewer forms to notify changes to key company details.
- ◆ ASIC noted a marked increase in requests by company officeholders to suppress their residential addresses from the public's view on our registers (16% up on last year). ASIC also received more requests to waive fees arising from lodgement of a form, or payment of a fee outside of the timeframes prescribed by the legislation it administers. There were, however, 10% more applications received for voluntary deregistration of a company.
- ◆ There was a 17% increase in misconduct and breach reports received from the public and industry compared to last year with 15,366 reports received compared to 13,106 for 2007–08. In finalising over 14,800 reports, this represents an 18% productivity gain compared to last financial year.
- ◆ This financial year, 10,005 companies entered external administration for the first time, a 26.5% increase (7,907 in 2007–08). Although ASIC is yet to feel the full impact of this increase, external administrators lodged 4.7% more statutory reports this year, however a lower proportion alleged misconduct or suspicious activity (69% this financial year compared to 80% in the previous financial year).
- ◆ Despite a reduction in the number of applications for new Australian Financial Services Licences, there was a 22% increase in requests to cancel or suspend a current licence, a 17% increase in requests to vary a licence, as well as a 2.6% increase in the number of changes to responsible managers.
- ◆ ASIC saw a 5% increase in the number of applications for relief with financial reporting relief the major category of relief sought.
- ◆ There were 30% fewer fundraising-related documents lodged, 58% fewer takeover documents lodged and 43% fewer applications to register a managed investment scheme.

Project Unite

On February 27 2009, ASIC published records of \$668 compulsory acquisition of unclaimed money to the value of \$34 million. Since January 2009, ASIC has increased the amount of money reunited with the public as a result of Project Unite paying out \$2.12 million in successful claims – nearly doubling last year’s figures.

Over the financial year a total of \$161 million in unclaimed money was received and over \$55.23 million was reunited.

Client Contact Centre

ASIC experienced a 12% increase in calls to Infoline this financial year with average handling time for calls increasing by two minutes to an average of eight minute calls. To some extent this reflects the higher number of financial distress and public assistance calls emerging from the global financial crisis.

There was a significant shift in the level and type of calls ASIC received about its registry services. For example, there was a 5.9% decrease in registry-related calls compared to last year, enabling the centre to apply its resources to other priorities. Most registry-related calls now focus on forms. Before ASIC’s initiatives to improve fees collection, including the move to open-item invoicing in 2008, the most common registry call was about ASIC invoices.

ASIC has also doubled the number of training hours completed by its Client Contact Centre staff this financial year. In September 2008, the target grade of service in the call centre was increased to 90% of calls answered in 60 seconds, up from 80%, and this target was achieved over the remainder of the year.

Increasing satisfaction of registry services and licensing stakeholders

ASIC has been talking to its stakeholders:

- ♦ holding biannual meetings with its Business Advisory Committee, the key external stakeholder consultation group that provides input on its operational strategy and priorities
- ♦ seeking feedback from over 120 registry stakeholders, 20 financial services licensees and their agents on how to improve its services, and
- ♦ listening to stakeholders and implemented a range of service improvements to increase satisfaction.

ASIC improved services by:

- ♦ reengineering its processes to retain an electronic image of paper forms before returning them to clients (because they are incomplete). This has improved services when handling related telephone enquiries
- ♦ designing new online receipts for online lodgements
- ♦ introducing a new telephone service to reset passwords to access its online systems (previously a paper and mail based process)
- ♦ improving the content and structure of its website, such as locating highly accessed services on the home page,
- ♦ notating potentially incorrect addresses on its public register to alert the searching public to its concerns, and
- ♦ redesigning its fees invoicing so that: payments can be made against specific invoice statements and items; and making it clearer when fees must be paid.

ASIC’s communications with clients have also improved because it is now:

- ♦ contacting clients by phone to manage lodgement-related issues (previously by mail)

PRIORITY 5 (CONTINUED)

- ♦ giving key licensing stakeholders their own nominated client managers. This is in addition to the 200-plus registry stakeholders with a nominated client manager, and
- ♦ keeping licensing applicants better informed on the status of their applications.

Project Synchronise

ASIC introduced a new keyword categorisation for complaints and breach reports in January 2009 to enable better risk and trend reporting and better target surveillance and deterrence activities.

Public complaints

ASIC encourages people to report suspected misconduct, and it dealt with 13,633 complaints, up 19%. In line with its target, 70% were finalised in 28 days.

	2008–09	2007–08
Complaints finalised	13,633	11,436
Referred for compliance, investigation or surveillance	18%	22%
Resolved	26%	34%
No jurisdiction	9%	6%
No breach/no offences*	11%	11%
Analysed, assessed and recorded	36%	27%

* In previous years, these have been reported together. However, following ASIC's strategic review in 2008, it reviewed the outcome codes to align to its new structure and to better differentiate matters falling outside of its jurisdiction. As a result, some matters previously recorded as 'Resolved' are now recorded as being outside ASIC's jurisdiction. However, ASIC still attempts to help these complainants.

ASIC successfully prosecuted 724 company officers for 1125 contraventions, slightly less than last year's figures of 752 company officers and 1455 contraventions.

ASIC generally seeks to obtain compliance before initiating prosecution action. In direct response to complaints, it sent 1465 warning letters to company directors seeking their compliance with the law in lodging documents or giving information to company members.

ASIC banned 44 company directors from managing companies (32 based on reports from liquidators who received Assetless Administration funding).

ASIC successfully prosecuted 724 company officers for 1125 contraventions, slightly less than last year's figures of 752 company officers and 1455 contraventions. Penalties included 69 good behaviour bonds and total fines and costs of \$1.03million. Overall, ASIC achieved a compliance rate of 42%.

Statutory Reports

Liquidators, administrators and receivers (external administrators) are required to report to ASIC if they suspect that company officers have been guilty of an offence or, in the case of liquidators, if the return to unsecured creditors may be less than 50 cents in the dollar.

Statutory Reports

	2008 -09	2007 -08	2006 -07
Total reports received	8,986	8,579	8,335
Reports assessed alleging misconduct or suspicious activity	6,228	6,886	6,862
Initial reports*			
Reports assessed alleging suspicious activity	5,656	5,835	5,717
Supplementary reports requested	11%	17%	17%
Analysed, assessed and recorded	89%	83%	83%
Supplementary reports†			
Supplementary reports assessed alleging misconduct	572	1,051	1,145
Referred for compliance, investigation or surveillance	20%	10%	16%
Referred to assist existing investigation or surveillance	4%	7%	% not captured
Analysed, assessed and recorded	75%	79%	81%
Identified no offences	1%	4%	3%

* Initial reports are electronic reports lodged under Schedule B of RG16. 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.

ASIC encourages people to report suspected misconduct, and it dealt with 13,633 complaints, up 19%.

ASIC conducted a review of Regulatory Guide 16, *External Administrator: Reporting and lodging*, in early 2008, republishing the Guide on 1 July.

As a result of this review, initial reports now request more specific detail from external administrators about alleged offences and the documentary evidence that may exist to support their allegations. This is helping ASIC to better target matters warranting further inquiry and reducing the number of supplementary reports requested.

The improved quality of information from practitioners has led to a greater proportion of supplementary reports being referred for compliance, investigation or surveillance or to assist an existing investigation or surveillance (24%) and fewer reports being received which fail to identify any offences.

PRIORITY 5 (CONTINUED)

ASIC Service Charter

The ASIC Service Charter sets out what standards of service industry and consumers who deal with ASIC can expect; and our performance against those standards. The results for 2008–09 compared to the previous year follow.

ASIC Service Charter results

Service	Service Charter target	2008–09 performance	2007–08 performance
General phone queries	We aim to answer your telephone queries on the spot	94% of calls answered on the spot (608,294 of 644,919) 6% (36,625 calls) referred to specialist staff	95% of calls answered on the spot (627,351 of 657,067) 5% (29,716 calls) referred to specialist staff
General email queries	We aim to reply within 48 hours to email queries	99% replied to in 2 business days (54,635 of 55,127)	98% replied to in 2 business days (51,272 of 52,185)
General correspondence about our public database and registers including fee waivers	We aim to acknowledge receipt within 14 days of receiving it, with full response within 28 days	93% fully responded to within 28 days (44,059 of 47,446)	90% fully responded to within 28 days (45,823 of 50,723)
	Correspondence received by our Correspondence Control Unit	100% acknowledged within 14 days (621 of 621 letters) 75% responded to within 28 days (464 of 621 letters)	100% acknowledged within 14 days (540 letters) 77% responded to within 28 days (444 of 574 letters)
Registering a company	We aim to complete company incorporations within 1 business day of receiving a complete application	99% in total (141,392 of 142,613) 99% of paper forms completed in 1 day (19,986 of 20,269) 99% of electronic forms completed in 1 day (121,406 of 122,344)	98% in total (150,078 of 153,172) 97% of paper forms completed in 1 day (21,363 of 22,114) 98% of electronic forms completed in 1 day (126,715 of 131,058)

Service	Service Charter target	2008–09 performance	2007–08 performance
Updating company information and status	We aim to enter critical changes to company information in the corporate register within 2 business days	<p>98% in total (1,032,278 of 1,048,462)</p> <p>95% of paper forms entered in 2 business days (223,087 of 235,524)</p> <p>100% of electronic forms entered in 2 business days (809,191 of 812,938)</p>	<p>95% in total (1,034,726 of 1,085,602)</p> <p>84% of paper forms entered in 2 business days (245,675 of 291,084)</p> <p>99% of electronic forms entered in 2 business days (789,051 of 794,518)</p>
Registering as an auditor	We aim to decide whether to register an auditor within 28 days of receiving a complete application	100% registered within 28 days (97 individual applications and 22 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 liquidator or official liquidator within 28 days of receiving a complete application	<p>88% of liquidators' applications decided within 28 days (22 of 25 applications)</p> <p>88% for official liquidators (30 of 34 applications)</p>	<p>73% of liquidators' applications decided within 28 days (16 of 22 applications)</p> <p>89% for official liquidators (25 of 28 applications)</p>

PRIORITY 5 (CONTINUED)

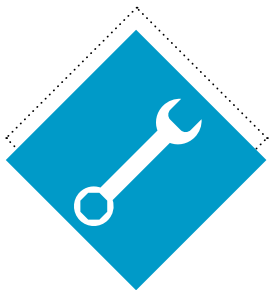
Service	Service Charter target	2008–09 performance	2007–08 performance
Registering a managed investment scheme	By law, we must register a managed investment scheme within 14 days of receiving a complete application	100% registered in 14 days (297 of 298)	99% registered in 14 days (512 of 519)
Applying 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: 72% decided in 28 days (234 of 323 applications)</p> <p>Varying a licence: 84% decided in 28 days (863 of 1,023 applications)</p> <p><i>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</i></p>	<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><i>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</i></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	Not applicable (no recommendation to the Minister made in this period)	Not applicable (no recommendation to the Minister made in this period)
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 (2,080 of 2,935 applications)</p> <p><i>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</i></p>	<p>71% of in-principle decisions made within 21 days (2,188 of 3,101 applications)</p> <p><i>This result is for all applications, including those where we did not initially receive all the information we needed to make a decision</i></p>

Service	Service Charter target	2008–09 performance	2007–08 performance
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	70% finalised within 28 days (9,602 of 13,633)	78% finalised within 28 days (8,880 of 11,436)



ASIC staff from Traralgon contributed to National Tree Day by planting trees at Eel hole Creek.

The ASIC Service Charter sets out what standards of service industry and consumers who deal with ASIC can expect; and our performance against those standards.



PRIORITY 6

IMPROVE SERVICES AND REDUCE COSTS BY USING NEW TECHNOLOGIES AND PROCESSES

More initiatives to reduce costs and improve services

In response to last year's stakeholder survey, which identified what ASIC did well and where improvement was needed, it developed key service objectives:

1. Reduce ASIC-generated costs of compliance by defining stakeholder's cost of compliance and how ASIC contributes to it, identifying how they can be reduced and setting reduction targets.
2. Increase online interaction through new online services:
 - ◆ new service for the online lodgement of e-product disclosure statement services; 98% lodged online since introduction in January 2009
 - ◆ new service for the online lodgement of applications to register a managed investment scheme; 11% lodged online since service introduced in March 2009
 - ◆ new service for the online submission of fee waiver requests
 - ◆ new service allowing for structured client enquiries via email (helping ASIC to improve its responses)
 - ◆ new service for the online lodgement of financial accounts
 - ◆ new service for the online submission of applications to voluntarily deregister a company, and
 - ◆ new service for the online submission of applications to change a company name.
3. Major service reform initiatives.

Working with Government and ASIC stakeholders on the design, development, planning and promotion of Government reforms to ensure the implementation results in improved services and satisfaction for ASIC stakeholders.

The attractiveness of ASIC's online services continues to rise. ASIC has brought several key forms online in the last financial year.

The proportion of all forms lodged online over the 2008–09 financial year is 66.4% an increase of 3.7% over 2007–08.

Over 80% of ASIC's e-enabled forms are now lodged online and 81.1% of its highest volume forms (484 change of company details) are lodged online.

More clients online

ASIC lodgers continue to move away from paper channels, in favour of its online lodgement services. There has been an increase in online lodgement via portals on its website of 4.7% since last year, a 3.1% decrease in paper lodgements and a 1.7% decrease in EDGE (3rd party proprietary software). Currently, paper lodgers account for 25.5% of lodgements, Easy lodge 31.2% and EDGE 43.2%.

The percentage of electronically enabled documents that were lodged online rose by 0.6% to 71.1% this year. Discounting its new services, ASIC saw a 3.1% increase in online lodgements of its mature online forms to 74.5%.

Notably, we have seen a 14.3% increase in the volume of financial services forms lodged online since last year.

Better Regulation program

Work continued this year on ASIC's Better Regulation program, which was launched in 2006. The program aims at making ASIC more transparent and accessible while reducing duplication and paperwork for the benefit of business, consumers and others.

ASIC has designed a new electronic tool to sweep its registers to detect director candidates for disqualification

New Zealand liaison

ASIC is liaising with the New Zealand Companies Office on:

- ♦ sharing, by ASIC, of information on director cessation updates
- ♦ actioning new legislation so that New Zealand directors disqualified by court orders are banned from managing a company in Australia, and
- ♦ exchanging information about New Zealand based companies that failed to submit financial reports and were to be targeted as part of ASIC's compliance campaign.

Information technology upgrade: STAR Program

ASIC is upgrading its information technology infrastructure. The upgrade will deliver improved access to ASIC's public information and better support to its people through flexible systems that meet legislative and business requirements.

Record Service Charter results

The ASIC Service Charter sets out the most common interactions it has with stakeholders and how quickly stakeholders can expect it to respond to phone calls, complaints, requests or applications. ASIC's performance for 2008–09 improved or remained steady in 15 of the 21 areas measured. See Priority 5 for full results.

ASIC's Registry Services and Licensing team achieved many record results including:

- ♦ 98.5% of all key documents processed within two business days. ASIC's goal is 90% and this is its highest ever result.
- ♦ 94.7% of key paper documents were processed within two business days. ASIC's goal is 90%. This was up 10.3% and the highest ever result.
- ♦ 99.1% of companies were registered within one day. This was an increase of over 1.1% since last year and ASIC's best ever result.

New probity policy

ASIC introduced a new process to more efficiently assist overseas regulators conduct probity (due diligence) checks of persons as part of their financial services licensing or registration processes. ASIC took action on 398 requests from overseas regulators, a sharp decline on the 712 requests received in 2007–08 due to the receipt of only 117 probity checks in 2008–09 (465 in 2007–08). Under ASIC's probity policy, overseas regulators were given clear instructions on how to access publicly available information on companies and persons licensed or working in the Australian financial services industry. They were also given clear guidelines on what confidential information ASIC would release in response to a request.

Improved director banning targeted

ASIC has designed a new electronic tool to sweep its registers to detect director candidates for disqualification under s206F of the Corporations Act. This tool was deployed on 1 July 2009 and will assist in improving public confidence that ASIC is playing an effective role in detecting and disqualifying company directors who are unfit to manage corporations.

ASIC'S PEOPLE

ASIC's people strategies have been designed to deliver on its unique employee value proposition which offers staff the opportunity to build their professional credentials that will be valued internally and externally.

ASIC offers staff interesting and challenging work, gaining a diverse insight into the world of financial services that only it can offer.

Leadership development

ASIC is committed to developing world class leaders to enable the organisation to deliver on its strategic priorities. This ongoing focus was reinforced by ASIC's 2008 Strategic Review findings which emphasised that leadership should be a key organisational imperative. During 2008–09, ASIC's leadership development strategy was refined to reflect these findings and to focus on five organisationally critical capabilities:

- ◆ Market focus
- ◆ Forward looking
- ◆ Collaboration
- ◆ Accountable
- ◆ Achievement

These capabilities now underpin and form the foundation for leadership development in ASIC. They have been used to shape the design of its Senior Executive Leadership Program and its Leadership Program aimed at mid-level managers.

Both programs are providing ASIC leaders with access to a wide range of best-practice development opportunities including customised leadership and management modules that have been developed in partnership with leading Australian business schools.

ASIC is confident that this investment will deliver tangible results as it supports the organisation's cultural direction and drive for enhanced levels of individual, team and organisational performance.

Building professional credentials

2008–09 saw a continued focus on building credentials for professions across the business with a particular focus on lawyers, accountants, auditors and investigators. ASIC's credential building strategy comprises three components:

Networks – establishing internal professional groups headed up by senior executive leaders to provide the direction for professional skill and credential building. The lawyer network came together in 2009 with over 400 members.

Communities of Practice – supporting each of the networks by creating targeted opportunities for staff, through smaller group discussion of professional topics, to deepen their knowledge and expertise.

Targeted learning – aligning formal and informal professional learning and training opportunities, at the individual and group level, provided through ASIC's People and Development team and a range of external providers.

ASIC's credential building program reflects the importance that a strong professional knowledge and skills base plays in being able to effectively deliver on its core strategic priorities. It is also working to provide a market-competitive professional learning environment – key to attracting and retaining talent.

Engaging new talent

ASIC's staff numbers have continued to grow with the establishment of new stakeholder and deterrence teams as well as in response to the challenges of the GFC.

ASIC has deliberately sought to attract and engage new talent with relevant industry experience to complement its existing talent and skill base recruiting 124 new employees in the Financial Economy group. ASIC's recruitment focused on attracting senior managers, senior specialists, lawyers, analysts, investigators and accountants. Recruitment has been across all levels from graduates to senior executive level.

ASIC is well advanced in preparing for its new responsibility for the national regulation of consumer credit which will see a significant boost to ASIC's numbers by 211.

ASIC IN THE COMMUNITY

In its second year, ASIC's corporate social responsibility program gives staff opportunities to make a difference by contributing to the wider community.

This program was established in response to the desire of ASIC's people to help others while in the work environment.

The program, run by a staff committee drawn from all ASIC offices, has three important elements:

- ◆ Workplace Giving
- ◆ staff volunteering, and
- ◆ reducing ASIC's environmental footprint.

During this past financial year, ASIC's people have raised a total of \$87,274 for community organisations. From Pink Ribbon events to the Victorian Bushfire Appeal, ASIC employees raised over \$50 per employee through fundraising events and Workplace Giving donations.

Workplace Giving: supporting causes close to our hearts

Workplace Giving means ASIC people can donate directly from their pay to one or more of the 20 charities supported by ASIC.

Raising money for Victorian bushfire victims

ASIC people responded quickly to raise money for victims of the Victorian bushfires, early this year, by holding fundraising morning teas in all offices. Together, ASIC's people raised over \$24,000 for the Red Cross Victorian Bushfire Appeal and the Gippsland Fire Relief Fund. These donations were over and above those made by individual ASIC people giving directly to the Red Cross and other charities, through blood donations to the Red Cross and donations of food, clothing and toiletries to the relief centres. ASIC's staff in the Traralgon centre in Victoria were outstanding in their generosity donating \$6863 to the bushfire appeal.



ASIC staff queue to give money for Victorian bushfire victims at a fundraising morning tea. Around Australia staff donated over \$24,000 for the Red Cross Victorian Bushfire Appeal and the Gippsland Fire Relief Fund.

Giving to other good causes

Fundraising morning teas were also held for Pink Ribbon events and 'Mr Movember', along with traditional collections of food, toys and gifts for the Salvation Army Christmas Appeal.

ASIC's Client Contact Centre (CCC) in Traralgon, Victoria, created a cookbook called 'Clever Cuisine Cookbook' to raise \$2170 for Noah's Ark, a local charity that supports families of children with developmental disabilities.

ASIC is a member of the Australian Red Cross 'Club Red' corporate blood donation program, and is encouraging and supporting staff to donate blood at special sessions held at its offices around the country.

Building a better community through volunteering

ASIC's Commission launched a Volunteering Program in September 2008. The program recognises the benefit ASIC volunteers bring to their local communities and the workplace by building a strong sense of community and improving staff morale and commitment by making a difference. ASIC staff are also entitled to one day per year of volunteering leave.

ASIC IN THE ENVIRONMENT

ASIC is committed in all its locations to building on past efforts to continue to reduce its carbon footprint and consumption of energy as well as improving its disposal of waste practices.

Environmental programs have been running since 2004. ASIC's largest office at No.1 Martin Place is certified to International Standard ISO 14001:2004 *Environmental Management Systems* and its Melbourne office also achieved ISO certification in July 2008.

A range of good environmental practices are in place across ASIC offices including recycling, lighting sensors, timers, use of recyclable goods, reduced packaging and the availability of parking for cyclists. Strategies are being implemented to better understand and improve environmental performance.

Office refurbishment projects undertaken in the financial year have been based on environmental principles with initiatives such as greater access to natural light, low VOC (volatile organic compound) paints and on surfaces, products with high recycled content, sensor lighting and perimeter light harvesting.

Hybrid vehicles replaced three fleet vehicles, with positive feedback received.

ASIC believes that many small steps taken by its workforce can make a significant impact. Therefore ASIC raises awareness among staff so they can play their part in making ASIC a greener work environment. Tips include how to save paper, switching off monitors at the end of the day, reporting and following up water leaks and recycling.

ASIC gets behind Earth Hour

The Australian Government took part in Earth Hour, with ASIC registering as a participant. ASIC's people took steps to ensure non-essential lights, PCs and appliances were switched off before they left work on the Earth Hour weekend. People were also encouraged to 'switch off' at home for Earth Hour.

Disclosure under the Environment Protection and Biodiversity Conservation Act

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

- ♦ the only activities 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, and
- ♦ ASIC reviews and increases the effectiveness of its environmental impact measures through internal evaluation regimes, environmental auditing, benchmarks or targets.



South Australian Regional Commissioner, Mark Bielecki, at an Investor Forum Information Session. These sessions are an important way for ASIC to understand how it can better help investors and consumers in terms of financial literacy and scam avoidance.

ASIC IN REGIONAL AUSTRALIA

ASIC's work in regional Australia is focused on delivering efficient and cost effective services to local stakeholders and ensuring local issues are identified and receive the required resources. Here are just a few examples of the work ASIC is involved in with regional stakeholders.

Public information sessions in country Victoria

Warren Day, Victorian Regional Commissioner, conducted a 'roadshow' of public information sessions in country Victoria visiting Horsham, Warrnambool and Mildura. He also discussed the relationship between return on investment and risk with students studying money and financial matters at Horsham Secondary College.

During the business session at Horsham, the issue of an international investment scam was raised and ASIC was subsequently able to identify the scam and raise awareness of it among the wider Australian community. It was a good example of local knowledge being made available more widely in an effort to protect retail investors and consumers.

Meetings with stakeholders in regional Queensland

Maree Blake, Queensland Regional Commissioner, held liaison meetings with a wide range of business and investor regional stakeholders in Toowoomba, Cairns, Townsville, Mackay, Rockhampton, Bundaberg and Hervey Bay, as well as in Brisbane and surrounding areas. Building on ASIC's priority of being close to the market, these liaison meetings developed networks to improve communication and stakeholder interaction and assist with the early identification of potential misconduct and high risk activities, particularly those directed at the retail investor sector. Maree has presented at numerous forums across the state covering a range of topics from ASIC's renewed structure and strategic priorities to retail investor issues, and will be continuing regular liaison with regional stakeholders.

Investor forums in regional South Australia

In May and June 2009, Mark Bielecki, South Australian Regional Commissioner, and two senior ASIC staff visited eight regional locations in South Australia, delivering an investor forum information session at each place and an industry stakeholder session at seven of the locations. The investor forum was held to increase the profile of ASIC in regional South Australia by raising awareness of its role, responsibilities and offerings; provide basic investing information and accessing financial services; and to identify regional issues. Mark also held a 'City of Adelaide Information Session' (an investor forum) which was booked out. The regional stakeholder sessions: reflect the priority of the South Australian Regional Office to become more accessible to the industry sectors ASIC regulates and works with; effectively identify business issues and concerns; further develop relationships with industry stakeholders; raise awareness of ASIC's current activities and priorities; and also gather intelligence. In the CBD this is achieved with an active program of Regional Liaison Committee meetings.

Financial literacy programs in Northern Territory

In the Northern Territory, a key focus for the team of the Regional Commissioner, Duncan Poulson, has been a working partnership with other agencies and organisations that deliver government programs in remote communities. Staff from ASIC's Northern Territory office visited 20 regional and remote indigenous communities during the year. Their work included supporting school-based projects and working with FaHCSIA on delivering on-the-ground financial literacy programs for remote indigenous communities. It is a source of pride that five of the seven winners of ASIC's Moola matters competition in 2008 were Indigenous students from remote Northern Territory schools.

ADDITIONAL ASIC OUTCOMES AND OUTPUTS (ACHIEVEMENTS)

ASIC's outcome and output framework sets out what ASIC has agreed to deliver to Government for 2008–09. It reflects the products and services ASIC delivers and informs its budget and reporting process. Each year, details of the framework are outlined in the Portfolio Budget Statements, along with the relevant performance information. For resource statements and resources for outcomes, see page 81. ASIC's 2008–09 framework and performance information follows.

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

ASIC's outcome and output framework has been rewritten for the 2009–10 year to reflect the new direction set by the strategic review.

Outcome 1: A fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers

Output 1: Policy and guidance about the laws administered by ASIC

Key performance indicators	2008–09 target	Outcome
Extent to which advice and recommendations are approved by the Minister	80% of advice to Minister on markets rule changes within 14 days of lodgement	92% of advice on market licensee operating rule changes were sent to the Minister within 14 days of formal lodgement (12 of 13)
Extent to which ASIC provides guidance and that there is effective consultation about that guidance	Full compliance with the consultation requirements set out by the Office of Best Practice Regulation	Full compliance as per our target
Consumers and investors are provided with information about their rights and responsibilities and how best to make informed choices under this legislative regime	Increased number of visits to ASIC's consumer website, FIDO	-1% (1,456,386 compared to 1,474,622) Decrease due to very large number of visits for unclaimed money in previous year
	An increase in the number of high schools that use ASIC's new superannuation and insurance interactive schools resources measured over a two-year period	<i>Your money starter</i> was released 2008-09 and distributed to every registered high school in Australia. (7,334 visits to related webpage this financial year)

Our outcome and output framework sets out what we have agreed to deliver to Government. It reflects the products and services we deliver and informs our budget and reporting process.

Key performance indicators	2008–09 target	Outcome
Consumers and investors are provided with information about their rights and responsibilities and how best to make informed choices under this legislative regime	The percentage of issuers of unlisted and unrated debentures (UUD) that distributes ASIC's UUD investor guide with their prospectus	Only 2 of the 23 still active UUD issuers who agreed to distribute the report with their prospectus were found to be doing so when ASIC reviewed issuers. 19 issuers made the guide available on their website or linked to it. 29,500 copies of the report have been distributed to issuers.
	Increased media coverage of ASIC's consumer messages	We released 24 consumer related media releases in this period (35 in 2007–08). These generated 151 mentions of ASIC in consumer related media (184 in 2007-08) and 66 specific media mentions of FIDO (65 in 2007–08).
	Over the longer term – improvements in financial literacy levels as shown in ANZ's National Financial Literacy survey that is undertaken every two years	The latest ANZ survey, released 2008, shows improvements including some small gains in understanding of investing fundamentals.

ADDITIONAL ASIC OUTCOMES AND OUTPUTS (ACHIEVEMENTS) (CONTINUED)

Output 2: Comprehensive and accurate information on companies and corporate activity

Key performance indicators	2008–09 target	Outcome
Ensuring the corporate register is available to the public to search	Availability of corporate register	Business hours: 99.5% 24 hours: 99.6%
	Increase in the number of searches of the corporate register	16% increase (8,461,036 searches)
Ensuring the corporate register remains current and up-to-date by processing changes promptly and efficiently	Percentage of key documents processed within 48 hours of receipt	99% of key documents processed within 48 hours of receipt
	Increased percentage of documents lodged electronically as a result of initiatives adopted by ASIC	The number of documents lodged electronically has increased.
	Increased percentage of company data lodged on time as a result of initiatives adopted by ASIC	95% of company data lodged on time as a result of initiatives adopted by ASIC
Providing stakeholders with information about their obligations under the Corporations Act	All companies provided company statements by ASIC within 14 days of their annual review date	Over 99% of company statements were successfully generated within 14 days.
	Call centre answers at least 80% of all calls within 60 seconds	The grade of service increased from September 2008 to 90% of calls being answered within 60 seconds.

Purchaser-provider arrangements: ASIC provides direct access to information from its databases to over 20 Commonwealth and state government agencies, to assist the agencies perform their regulatory and law enforcement functions. A number of Commonwealth agencies also have access to non-public information via memoranda of understanding.

Output 3: Compliance monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity

Key performance indicators	2008–09 target	Outcome
Compliance activities lead to the identification of specific behaviour patterns, problems or risk areas and most appropriate responses to them	Entities make better disclosures to the market where specific behaviour patterns, problems, or risks have been identified associated with fund raising or financial services and products	54 entities made better disclosure
	Entities make changes to their compliance arrangements and/or behaviours where specific behaviour patterns, problems or risks have been identified	19 entities made changes to their compliance arrangements
Prompt and efficient notification to entities and individuals regarding their application for, or amendment to their licence requests	70% of applications for Australian Financial Services (AFS) licences and variations to AFS licences decided within 28 days	72% of applications for AFS licences (234 of 323) decided within 28 days; 84% of variations decided within 28 days (863 of 1023)
	100% of managed investment schemes registered within 14 days	100% (297 of 298). The remaining scheme was registered on the 15th day because of a public holiday.
Prompt and efficient assessment of capital markets	80% of recommendations to the Minister on new market licences made within 16 weeks of receiving a complete application	Not applicable: no recommendations were made to the Minister in this period
	80% of findings on assessment of markets are provided to the licensee within 2 months of inspection	50% of findings on assessments provided to the licensee within 2 months of inspection (6 of 12)
Discretionary decision making in accordance with principles of administrative law	No successful appeals to the Administrative Appeals Tribunal regarding ASIC decisions to grant AFS licences or relief from obligations under the Corporations Act	One successful appeal to the Administrative Appeals Tribunal

ADDITIONAL ASIC OUTCOMES AND OUTPUTS (ACHIEVEMENTS) (CONTINUED)

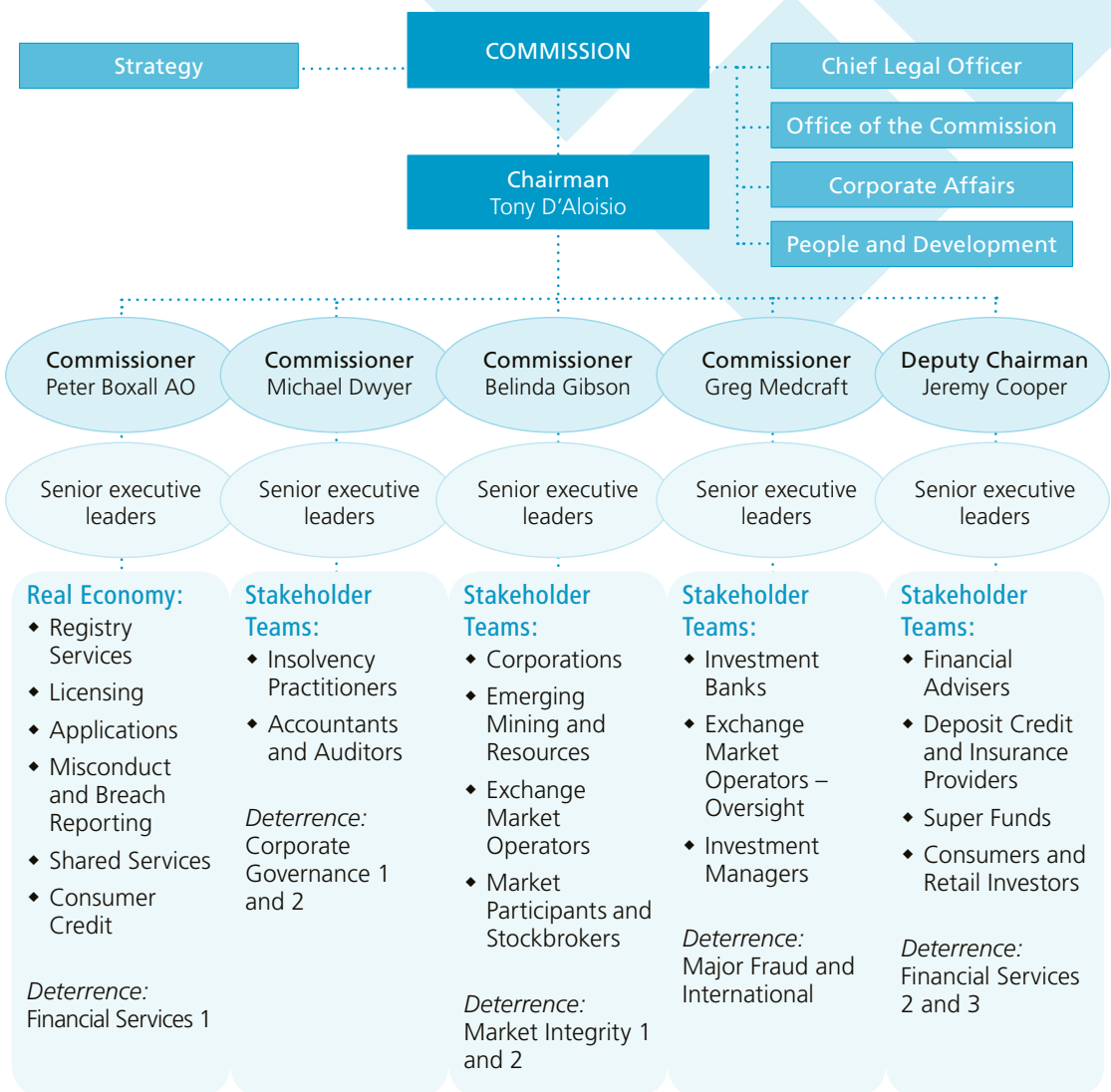
Output 4: Enforcement activity to give effect to the laws administered by ASIC

Key performance indicators	2008–09 target	Outcome
Prompt and efficient conduct of investigations resourced	50% of investigations resourced that led to a conclusion within 6 months of commencement	34% of investigations resourced led to a conclusion within 6 months of commencement (48 of 140)
	No more than 15% of investigations resourced that led to a conclusion after 12 months of their commencement	40% of investigations resourced led to a conclusion after 12 months of their commencement (56 of 140)
Enforcement actions lead to the protection of consumers and investors	Percentage of successful criminal prosecutions by the Commonwealth Director of Public Prosecutions	80% successful criminal prosecutions by the Commonwealth Director of Public Prosecutions (37 of 46)
	Percentage of successful civil prosecutions	94% successful civil prosecutions (83 of 88)
	70% of investigations resourced that lead to an enforcement outcome	59% of investigations resourced lead to an enforcement outcome (82 of 140)
Complaints received are resolved promptly and efficiently	Customer service levels maintained with a minimum of 70% of complaints assessed, finalised and the complainant notified of outcome within 28 days of receipt	70% of complaints (9602 of 13,633) finalised in 28 days

ORGANISATIONAL STRUCTURE

Strategic leadership, 30 June 2009

ASIC Commissioners provide strategic leadership to all ASIC's activities.



ORGANISATIONAL STRUCTURE (CONTINUED)

New ASIC structure

The new ASIC structure has been in place since 1 September 2008. Each Real economy and each Financial economy team is led by a senior executive leader, 36% of whom were recruited externally from the market.

This structure helps ASIC focus on its priorities in both the financial economy and the real economy.

Financial economy teams

ASIC's 12 financial economy stakeholder teams, with strong industry and regulatory experience, are focused on monitoring the market and ensuring compliance with the rules and developing policy initiatives.

Its eight specialised deterrence teams have brought sharper focus to the investigation and prosecution of serious misconduct.

Real economy teams

Its real economy teams are focused on stakeholder services and delivering a first-rate public register and registration function.

Other strategic leadership

ASIC has made a significant investment in market research and economic analysis to better identify emerging issues and monitor real-time changes in the markets.

And it's struck a better balance between national and regional priorities by appointing new ASIC Regional Commissioners – a valuable source of local on-the-ground knowledge of key developments and issues.

ASIC'S STAKEHOLDERS

Who ASIC's work covers

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

- ◆ 16.9 million people who have a deposit account
- ◆ 11.8 million who invest in superannuation or annuities
- ◆ 10.8 million who have a major card (credit, debit or charge)
- ◆ 6.7 million who have a loan (e.g. home loan, mortgage on investment property, bridging loan, home equity loan, personal loan, lease)
- ◆ 3.9 million who directly hold shares (excludes any shares held in any type of managed investment or superannuation)
- ◆ 2 million who have invested (managed investment /superannuation) through a financial planner /adviser, and
- ◆ 1 million who invest in managed investments.



* Source: Roy Morgan Research, 12 months to March 2009, people aged 14+.

COMMISSIONERS



From left: Jeremy Cooper, Michael Dwyer, Belinda Gibson, Tony D'Aloisio, Greg Medcraft, Peter Boxall AO

Tony D'Aloisio

BA, LLB (Hons)

Mr Tony D'Aloisio became ASIC Chairman on 13 May 2007 for a four-year term. Between 22 November 2006 and 13 May 2007, Mr D'Aloisio held the position of ASIC Commissioner.

Mr D'Aloisio has extensive commercial and legal experience and has been involved in business policy and regulation.

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

Prior to this, he was Chief Executive Partner at Mallesons Stephen Jaques between 1992 and 2004. Mr D'Aloisio joined Mallesons in 1977 where he practised as a commercial lawyer until taking up his role as Chief Executive Partner. His principal areas of practice were mergers and acquisitions, taxation and restrictive trade practices and international trade and investment.

In addition to practising law, Mr D'Aloisio held a number of management and business positions within Mallesons, with his role involving extensive assessment of markets in Hong Kong, China, Thailand, Taiwan, Indonesia, Singapore, Malaysia, USA and the UK.

Jeremy Cooper

LLB (Hons), FAICD, SF Fin

Mr Jeremy Cooper was the Deputy Chairman of ASIC, having been appointed in July 2004 for a five-year term. In May 2009, the Government announced a review into the governance, efficiency, structure and operation of Australia's superannuation system. Mr Cooper took up his new role as the Chair of the review in July 2009.

He was previously a partner with a leading Australian law firm where he was involved in many major corporate transactions, including takeovers, reconstructions, ASX listings and capital raisings.

Mr Cooper has been a member of the Corporations Committee of the Business Law Section of the Law Council of Australia since 1995 and is a regular speaker on corporate law issues.

Belinda Gibson

BEC, LLB (Hons), LLM (Hons)

Ms Belinda Gibson was appointed as an ASIC Commissioner on 5 November 2007.

Prior to her appointment Ms Gibson was a Partner at Mallesons Stephen Jaques where she specialised in transactional advice and in corporate and securities law. Ms Gibson has managerial experience through her role as Partner in Charge of the Sydney office of Mallesons Stephen Jaques from 2000 to 2003. Through her practice she has extensive knowledge of corporate governance and accounting practices in Australia.

She was also a director of Air Services Australia from 2001 to 2004 and a charitable body, the Sir Robert Menzies Memorial Foundation, from 1990 to 2007.

Dr Peter J. Boxall AO

BEC (Hons), MEd, PhD

Dr Peter Boxall joined ASIC as a Commissioner on 2 February 2009.

Mr Boxall was previously Secretary of the Department of Resources, Energy and Tourism, following six years as Secretary of the Department of Employment and Workplace Relations and five years as Secretary of Finance and Administration with the Australian Government.

He is an economist, with a doctorate from the University of Chicago.

Mr Boxall commenced his career with the Reserve Bank of Australia then spent seven years at the International Monetary Fund in the US, followed by graduate studies at the University of Chicago and a graduate fellowship at The Brookings Institution.

On returning to Australia in 1986, Mr Boxall joined the Department of Treasury. He was Senior Economic Adviser to the Leader and Deputy Leader of the Opposition in the late 1980s and early 1990s. He was Secretary of the Department of Treasury and Finance in South Australia, then Principal Adviser to the Treasurer, the Hon Peter Costello MP.

Greg Medcraft

Mr Greg Medcraft joined ASIC as a Commissioner on 2 February 2009.

Prior to joining ASIC, Mr Medcraft was Chief Executive Officer and Executive Director at the Australian Securitisation Forum (ASF).

He spent nearly 30 years in investment banking at Société Générale (SG) in Australia, Asia, Europe and the Americas, where he became the Managing Director and Global Head of Securitisation based in New York. Prior to his roles at SG, Mr Medcraft was a chartered accountant at KPMG.

In 2002, Mr Medcraft co-founded the American Securitisation Forum and was its Chairman from 2005 until 2007, when he returned to Australia.

Michael Dwyer

MBA

Mr Michael Dwyer became a Commissioner on 16 February 2009.

He has extensive experience as a chartered accountant and an insolvency practitioner, including a term as National President of the Insolvency Practitioners' Association of Australia. He also held positions as the National Chairman of the Business Recovery Group at Howarth Australia Ltd and as Partner in Charge of Corporate Recovery Practice at KPMG in Adelaide. He then opened his own firm, Dwyer Corporate. Mr Dwyer also has strong international knowledge of financial and operational restructuring.

REGIONAL COMMISSIONERS

Regional Commissioners play a vital role in ensuring ASIC gathers information on developments and issues in the states and territories and liaising with ASIC's external stakeholders and State and Territory governments.

One of the changes resulting from ASIC's strategic review was to strike a better balance between national and regional priorities and initiatives. ASIC's eight Regional Commissioners are responsible for delivering efficient and cost-effective services to local stakeholders, and ensuring local issues are identified and receive the required resources. An important part of ASIC's engagement with stakeholders is the attendance by ASIC Commissioners at regular Regional Liaison Meetings held by ASIC in each state and territory with a wide range of stakeholder representatives.

Under ASIC's new structure, the prominence of Regional Commissioners has been raised

Maree Blake (Qld)

Ms Blake joined ASIC in 2005 and held the position of Specialist Director, Corporations and Insolvency within the agency's former Enforcement directorate where she was responsible for corporate governance, insolvency and auditor and liquidator matters. She was appointed Regional Commissioner for Queensland in October 2008. Before joining ASIC, Ms Blake was a partner with Sims Partners Chartered Accountants and PPB Chartered Accountants, specialising in corporate restructuring and insolvency. She is a Fellow of CPA Australia and a Graduate Member of the Australian Institute of Company Directors (GMAICD).



Greg Yanco (NSW)

As well as being Regional Commissioner for NSW, Mr Yanco is Senior Executive Leader for Market Participants. He was formerly Chief Executive Officer, AXE ECN Pty Limited and Manager, Institutional and Wholesale Markets, during his career at the Australian Stock Exchange (1986–2006). Mr Yanco has extensive experience and knowledge in financial market development, regulation and supervision. At the ASX, Mr Yanco implemented equity market structure changes and managed the operations of the market surveillance and investigations units. He is a CPA and a Master, Securities and Derivatives Industry Association.



Delia Rickard (ACT)

Ms Rickard joined ASIC in 1999 and held a number of senior positions in the agency's former Consumer Protection directorate. She was appointed Regional Commissioner for ACT in 2004, and is also Senior Executive Leader for Consumers, Retail Investors and Financial Literacy, working closely with the consumer sector, industry and other areas of government. Before joining ASIC, Ms Rickard ran the Australian Competition and Consumer Commission's consumer protection branch and also worked on the Secretariat for the Wallis Inquiry into Australia's financial system.



Warren Day (Vic.)

Mr Day joined ASIC in 2003 as a senior lawyer in enforcement and from 2007, was the Specialist Director, Investor and Consumer Protection. During this time, he led investigations about consumer protection,



credit and unlicensed conduct and illegal schemes, including more recently Firepower and Chartwell. He was appointed Regional Commissioner for Victoria in October 2008. Before joining ASIC, Mr Day worked as a solicitor at Clayton Utz and as an auditor and analyst at the Australian Taxation Office.

Julie Read (Tas.)

Ms Read joined ASIC from the Commonwealth Director of Public Prosecutions' Hobart office, where she was the Assistant Director for five years. She was appointed Regional Commissioner for Tasmania in 2002 and has brought her strong legal background and familiarity to ASIC's enforcement work. Before 1998, Ms Read worked with the Australian Government Solicitor's Office in Hobart and in private practice in a variety of commercial, criminal and civil litigation areas.



Mark Bielecki (SA)

Mr Bielecki was appointed South Australian Regional Commissioner in October 2008. Among other roles, he was previously a managing partner of commercial law firm, Finlaysons in Adelaide, and of the Sydney office of Thomson Playford. Mr Bielecki also led PricewaterhouseCoopers Legal's National Dispute Resolution and Litigation Business Unit.



Throughout his career, Mr Bielecki has specialised in commercial dispute resolution. He has extensive experience in practice in South Australia and New South Wales and has practised, or represented clients, in every state and territory of Australia and in New Zealand and the USA. In addition to his Regional Commissioner responsibilities, Mr Bielecki holds

the role of ASIC Special Counsel and also sits on a number of ASIC Project Taskforce Boards, including the Board of the Credit Taskforce, which is preparing for ASIC to take over the regulation of consumer credit.

Bruce Dodd (WA)

Mr Dodd was a former Senior Partner and Partner in Charge in the Perth office of Mallesons Stephen Jaques. He specialised in commercial dispute resolution with a particular emphasis on insurance, insolvency and bank litigation and has extensive experience in the financial and business markets in Western Australia. Mr Dodd was appointed Regional Commissioner for WA and Senior Executive Leader of Emerging Mining and Resources in September 2008 and took up his role at ASIC in October 2008.



Duncan Poulson (NT)

Mr Poulson was appointed Regional Commissioner for the Northern Territory in 2006, having previously served as a lawyer with ASIC since 2000. He has contributed to ASIC's enforcement, regulatory, and educational programs throughout the Northern Territory. Before joining ASIC, Mr Poulson was a Lecturer in Commercial Law and International Business at the University of Tasmania, teaching in Tasmania and Asia. In recent times, his work with ASIC has focused on financial services consumer issues, with a particular emphasis on financial literacy initiatives.



WORKING AT ASIC

Health and safety at work

ASIC is committed to developing a workplace culture that values health and safety. It recognises its moral and legal responsibility to provide a safe and healthy work environment for employees and visitors. In support of this, ASIC has developed the Health and Safety Management Arrangements that outline the organisation's framework for managing health and safety.

There were 21 workers compensation claims lodged with 13 claims accepted, four rejected and four pending. Most claims were for back, neck, shoulder or limb problems and occupational overuse syndrome.

ASIC educated staff about measures to prevent workplace injuries by conducting several office ergonomics sessions in Adelaide and Perth as part of the recent office refurbishments at those sites. These sessions were well received by staff. In addition to these sessions, occupational therapists conducted workstation assessments for staff attending the sessions.

For other sites, the OH&S and Workers Compensation Unit conducted a significant number of workstation assessments as a preventative initiative.

There were no serious personal injury notices sent to Comcare under s68 of the *Occupational Health and Safety Act 1991* and no investigations conducted during the year under s29 or s47 of the Act.

ASIC's employee assistance program is available to give assistance for personal and work-related problems. The annual utilisation was 6.1% including family members, compared to a rate of 6.4% for 2007–08. As part of ASIC's influenza vaccination program, 575 staff were vaccinated.

The OH&S and Workers Compensation Unit is in the process of preparing a wellbeing program for next financial year. It is anticipated that a survey will be conducted before the end of 2009 to determine the wellbeing needs of staff.

ASIC has introduced a WorkPace program in its Traralgon office. WorkPace is an exercise and rest break software program used as a tool to prevent occupational overuse injuries. The recent pilot program conducted during the year resulted in ASIC purchasing 200 licences. Access to the program will be given to staff with needs before the end of 2009.

ASIC provides a range of financial rewards and non-financial benefits, such as flexible working arrangements, in order to attract and retain high-quality staff.

Industrial and workplace relations

ASIC provides a range of financial rewards and non-financial benefits, such as flexible working arrangements, in order to attract and retain high-quality staff. Eligible employees received performance bonuses (ranging from three to 15% of salary) based on the outcomes of their performance review. There is also access to salary packaging and study assistance, including assistance with fees and leave to attend courses and exams.

Performance payments paid in 2008–09 by classification*

Employee level	Number of recipients	Aggregate performance payments \$	Performance payment range		Average performance payment \$
			Minimum \$	Maximum \$	
ASIC 4	112	360,039	991	10,685	3,215
EXEC 1	276	1,126,302	468	9,702	4,081
EXEC 2	393	2,371,529	1,245	16,032	6,034
SES	47	714,269	4,030	44,324	15,197
ASIC	828	4,572,138	468	44,324	5,522

* This includes payments for the 2007–08 performance year, paid in 2008–09, plus pro-rata payments for the 2008–09 performance year for staff who have left ASIC in 2008–09.

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.

Negotiations for new Enterprise Agreements started in May 2009 to replace the ASIC 2007–09 Collective Agreement. In new agreements, ASIC is looking to build on current employment conditions and to make improvements where appropriate.

WORKING AT ASIC (CONTINUED)

Industrial arrangements for ASIC staff, as at 30 June 2009

Classification	ASIC Act s120(3) contract	AWA	CA	CA24*	Total
ASIC 1–3 (APS 1–5)			606		606
ASIC 4 (APS 6)		99	245		344
EXEC 1	2	242	23	110	377
EXEC 2		354	6	99	459
SES & equiv	27	30	4		61
Total	29	725	884	209	1,847†

* CA with supplementary conditions included in a *Public Service Act 1999* s24(1) determination.

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

The majority of ASIC's executive level staff are covered by Australian Workplace Agreements (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. ASIC 4 staff who were already on AWAs have access to a performance bonus not available under the CA.

In order to ensure ASIC is able to attract quality staff and 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 s24(1) of the *Public Service Act 1999*.

The ASIC Act includes a specific employment power to engage executive and senior executive staff under s120(3) contracts on terms and conditions consistent with those of ASIC's Australian Public Service (APS) staff.

During 2008–09 a major recruitment exercise commenced to attract the skills and experience required to meet the demands imposed by evolving Financial and Real Economies.

Salary ranges per annum

Classification	Minimum \$	Maximum \$
ASIC 1	37,034	40,931
ASIC 2	43,068	51,526
ASIC 3	54,898	62,928
ASIC 4	65,690	74,365
Exec Level 1	82,172	100,811
Exec Level 2	94,771	138,346
SES	131,000	260,000

Remuneration for ASIC's SES level is determined by the responsibility and accountability of the role, relativities with the remuneration of SES officers across the APS (and, when 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.

During 2008–09, ASIC restructured its workforce to better meet its regulatory obligations. A major recruitment exercise commenced to attract the skills and experience required to meet the demands imposed by evolving Financial and Real Economies.

Equal opportunity and merit

ASIC is an equal opportunity employer. Excluding contractors and agency temporary employees, 45% of senior executives are females, reflecting no change from last year. Females comprise 59% of total employees.

All ASIC staff must adhere to the APS values and code of conduct under the Public Service Act.

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. ASIC has special reporting and decision-making procedures to maintain the integrity of its decisions.

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 continuing education of staff about their responsibilities at work.

WORKING AT ASIC (CONTINUED)

Other resources

ASIC 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 are included in the ASIC certified agreement.

Fraud control

In 2008–09, ASIC continued to implement the strategies outlined for its 2007–09 Fraud Control Plan, which covers strategies and processes to avoid, detect, investigate and minimise the effects of fraud. ASIC maintained reporting and data collection mechanisms that met its needs and complied with the Commonwealth Fraud Control Guidelines.

ASIC employees (including SCT* and CALDB† staff) by classification and location, average FTE‡ for years ended 30 June

	Vic		NSW		Qld		WA		SA	
	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
Chair	1	1	1	1						
Deputy chair	2	2								
Member			2	1						
SES	12	16	30	31	2	3	1	1	2	2
Exec 2	129	105	196	176	32	28	27	24	12	14
Exec 1	93	101	160	143	29	29	31	30	12	11
ASIC 4	123	115	115	114	34	32	16	23	17	16
ASIC 3	122	116	70	70	26	32	11	21	14	17
ASIC 2	183	188	18	29	15	15	12	12	7	6
ASIC 1	26	39								
Contractors§	3	7	69	57		2	1	3		
Total	694	690	661	622	138	141	99	114	64	66

* Superannuation Complaints Tribunal

† Companies, Auditors and Liquidators Disciplinary Board

‡ Inconsistencies in totals and subtotals are due to rounding

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

ASIC has internal and external grievance procedures, including review of actions under the Public Service Act and appeals to the Australian Public Service Commission.

ACT		Tas		NT		Total		
2009	2008	2009	2008	2009	2008	2009	2008	
						2	2	Chair
						2	2	Deputy chair
						2	1	Member
1	1	1	1			49	55	SES
4	2	4	4			404	353	Exec 2
6	4	5	2	2	2	338	322	Exec 1
3	3	3	4			311	307	ASIC 4
2	3	3	2	2	2	250	263	ASIC 3
3	3	2	2			240	255	ASIC 2
						26	39	ASIC 1
1	1					74	70	Contractors [§]
20	17	18	15	4	4	1,698	1,669	Total

WORKING AT ASIC (CONTINUED)

Operative and paid operative ASIC staff (including SCT* and CALDB† staff) by classification and gender, average FTE‡ for years ended 30 June

Employment type and classification	Ongoing full-time				Ongoing part-time				Non-ongoing full-time	
	Female		Male		Female		Male		Female	
	2009	2008	2009	2008	2009	2008	2009	2008	2009	2008
Appointee§										
Chair									1	1
Deputy chair	1	1								
Member									1	1
Appointee total	1	1							2	2
ASIC Act										
Exec 1			1	1						1
Exec 2									1	6
SES	2	4	1	2					7	6
Contractors~									21	28
ASIC Act total	2	4	2	3					29	41
Public Service Act										
ASIC 1	2	2	1	1		1			11	19
ASIC 2	101	114	33	43	56	51	6	4	23	25
ASIC 3	124	141	70	79	23	19	5	1	13	14
ASIC 4	156	143	105	121	26	21	7		6	10
Exec 1	130	135	157	139	20	16	12	4	5	10
Exec 2	118	89	219	199	31	31	14	6	4	4
SES	11	12	11	14	2	2				
Public Service Act total	642	636	596	596	158	141	44	15	62	82
Total	645	641	598	599	158	141	44	15	93	125

* Superannuation Complaints Tribunal

† Companies, Auditors and Liquidators Disciplinary Board

‡ Inconsistencies in totals and subtotals are due to rounding

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

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

Non-ongoing full-time		Non-ongoing part-time				Total		Employment type and classification
Male		Female		Male				
2009	2008	2009	2008	2009	2008	2009	2008	
								Appointee^s
1	1					2	2	Chair
1	1					2	2	Deputy chair
				1		2	1	Member
2	2			1		6	5	Appointee total
								ASIC Act
1	4					2	6	Exec 1
1	9					2	15	Exec 2
10	14	1	1	4		25	27	SES
53	42					74	70	Contractors [~]
65	69	1	1	4		103	118	ASIC Act total
								Public Service Act
3	5	8	9	1	2	26	39	ASIC 1
4	8	13	8	4	2	240	255	ASIC 2
7	8	6		3	1	251	263	ASIC 3
4	10	5	1	1	1	310	307	ASIC 4
7	11	2	1	3		336	316	Exec 1
11	8	4	1	1		402	338	Exec 2
						24	28	SES
36	50	38	20	13	6	1,589	1,546	Public Service Act total
103	121	39	21	18	6	1,698	1,669	Total

WHERE ASIC FITS IN THE REGULATORY PICTURE

ASIC's statutory aims

In brief, s1(2) of the ASIC Act requires ASIC to strive 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 a minimum of procedural requirements
- ◆ act to enforce and give effect to the law
- ◆ make information about companies and other bodies available to the public
- ◆ 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 the *First Home Saver Accounts Act 2008*.

The ASIC Act, the Corporations Act and other Commonwealth regulatory legislation confer various powers and discretions on ASIC. The majority of these powers and discretions are subject to judicial or administrative review (or both), by the Federal Court and the Administrative Appeals Tribunal respectively.

ASIC regulates companies and financial services, and promotes investor, creditor and consumer protection.

Other regulators

ASIC cooperates with the following bodies through consultation at senior level and regular contact by operational and policy staff:

- ◆ 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. It is proposed that from late 2009 ASIC will be regulating consumer credit under a new national law.
- ◆ 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 market place.
- ◆ The ASX is a regulated commercial organisation with some monitoring and supervisory responsibilities (e.g. the governance of listed companies and the on-market trade execution by brokers) derived from its licences.

ASIC is a member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies. Other members are: the Reserve Bank, APRA and the Australian Treasury.

Relationship with the responsible Minister

The Ministers responsible for ASIC at 30 June 2009 are the Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP. Minister Bowen replaced Senator the Hon Nick Sherry who was Minister for Superannuation and Corporate Law until 8 June 2009.

Commissioners reported to the Minister through their annual report, and through briefings, submissions and meetings with the Treasurer or the Ministers Bowen or Sherry. ASIC also briefed the Treasury about current issues and proposed changes to the law.

Under s12 of the ASIC Act, the Minister may direct ASIC about policies or priorities in using its powers or performing its functions, but may not direct it about a particular case. Only one such general direction has been given, in 1992, about collaboration and consultation between ASIC and the Director of Public Prosecutions 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 its general administration, for example, by referring to particular sources of Government information when publishing ASIC information for small businesses. ASIC exchanged letters of intent with the former Government on expectations of ASIC. These are on ASIC's website.

Reporting to Parliament

ASIC appeared before Committees of the Parliament of Australia on nine occasions: the Parliamentary Joint Committee on Corporations and Financial Services (three), the Senate Standing Committee on Economics (four), the Parliamentary Standing Committee on Public Works (one) and the House of Representatives Standing Committee on Economics (one).

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 September 2008 and February 2009. This important process enabled parliamentarians to examine ASIC and make recommendations. The Committee reported that it remained 'satisfied that ASIC continues to carry out its functions in accordance with the provisions of the corporations legislation'.

ASIC is a member of the Council of Financial Regulators, the coordinating body for Australia's main financial regulatory agencies.

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 its best endeavours to have a Commission member present at those meetings, see page 62.

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

Commissioners

The Commission is responsible for the strategic direction of ASIC and its priorities. The Commission meets regularly, usually monthly:

- ◆ to make decisions on matters within ASIC's regulatory functions and powers that have strategic significance, and
- ◆ to oversee the management and operations of ASIC as a Commonwealth Government agency.

The Ministers responsible for ASIC at 30 June 2009 are the Treasurer, the Hon Wayne Swan MP, and the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP.

The Commission appoints and evaluates the performance of Senior Executive Leaders, and approves budgets and business plans for each team.

Individual Commissioners also have executive responsibility for particular stakeholder and deterrence teams, see page 59.

Under the ASIC Act, ASIC is accountable to Parliament and the responsible Minister, to judicial and administrative review, and to the community. See page 60 for information about the Commission members.

The Commission held 25 formal meetings.

Commissioner	Eligible to attend	Attended
Tony D'Aloisio	25	25
Jeremy Cooper	20	19
Peter Boxall AO	9	9
Michael Dwyer	5	5
Belinda Gibson	23	23
Greg Medcraft	8	8

In July 2009, Jeremy Cooper completed his term as a Commissioner. Mr Cooper was appointed to head the Government's review into the governance, efficiency, structure and operations of Australia's superannuation system.

Commissioners' appointment and remuneration

The Governor-General, on the nomination of the Treasurer, appoints ASIC Commissioners. The Treasurer may nominate as Commissioners only people who are qualified by knowledge of, or experience in, business, administration of companies, financial markets, financial products and financial services, law, economics or accounting.

Commissioners are appointed on fixed terms that may be terminated earlier only for reasons set out in s111 of the ASIC Act.

The Remuneration Tribunal sets Commissioners' remuneration, which is not linked to their performance.

Conflicts of interest

The ASIC Act requires Commission members to disclose to the Minister direct or indirect pecuniary interests in corporations carrying on business in Australia, businesses in Australia or interests regulated by ASIC, or arrangements or agreements for future business relationships.

Chief Legal Office

Michael Kingston, the Chief Legal Officer, is the primary source of legal advice to the Commission, providing legal counsel to the Chairman on major regulatory and enforcement matters and ASIC's operations and administration. Other independent legal and accounting experts also advised on specific matters.

Top level management

The Commission has delegated various powers and functions to Senior Executive Leaders, Regional Commissioners and staff reporting to them, to ensure that ASIC's business is carried out efficiently and effectively. Delegations are reviewed regularly and the Commission requires its delegates to act in accordance with policies and procedures approved by the Commission.

Financial governance

ASIC operates under the *Financial Management and Accountability Act 1997*, which primarily governs its use of Commonwealth resources and expenditure of public money. For more information about procurement policies see Appendices on page 79.

AUDIT COMMITTEE AND AUDIT, ASSURANCE AND COMPLIANCE SERVICES

The Audit Committee, under a charter agreed between the Committee and the Commission, assist the Commission 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 Committee has reviewed ASIC's 2008–09 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	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; reappointed as an independent member commencing 19 January 2009.	4	4
Belinda Gibson, ASIC Commissioner, appointed December 2007.	4	4
Maree Blake, ASIC Qld Regional Commissioner appointed September 2008.	3	3

The Audit Committee Chairman, Deputy Chairman and Byram Johnston are independent members, appointed from outside ASIC. All three independent members are chartered accountants, company directors and have significant financial and business experience. Mr. Johnston was also the independent Chairman of ASIC's IT Board until March 2009.

The internal appointees are ASIC Commissioner Belinda Gibson, representing the Commission, and Queensland Regional Commissioner Maree Blake.

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

The Committee sends a report to the Commission after each meeting. The Chairman of the Committee meets separately with the ASIC Chairman when required, and the Committee met briefly with newly appointed Commissioners and Senior Executive Leaders during the year.

In 2008–09, the Commission agreed for 2009–10 and following years to transition ASIC's Audit, Assurance and Compliance function to a co-sourced arrangement to utilise the professional experience of an external audit service provider. Deloitte Touche Tohmatsu was selected as the co-sourced provider.

The Australian National Audit Office provides external audit services. Both external and internal audit representatives attend Audit Committee meetings.

Robert R Savage

Chairman, ASIC Audit Committee

Sept 2009

appendices

APPENDICES

Publications

ASIC published the following free publications:

- ◆ electronic newsletters: *FIDO News*, *Financial services update*; printed newsletters: *InFocus* (company information)
- ◆ new consumer brochures (in English)
 - ◆ *Investing in mortgage funds?*
 - ◆ *Investing in property trusts?*
 - ◆ *Thinking about using the equity in your home?*
 - ◆ *Thinking about self-managed super?* (with Australian Taxation Office)
 - ◆ *Paying for funerals: Tips for Indigenous consumers*
- ◆ updated consumer brochures (in English)
 - ◆ *Getting advice*
 - ◆ *Your money* (also in 6 other languages)
 - ◆ *Super decisions* (8 other languages)
 - ◆ *You can complain* (3 other languages)
 - ◆ *Super and us mob*
- ◆ regulatory guides, consultation papers, reports, information sheets and legal (including gazettes), communication and corporate documents. These are accessible through ASIC's website or Infoline.

ASIC 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 documents you want to obtain. Requests should be addressed to the Administrative Law Coordinator in your state or territory. 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 documents, media releases, information releases, pamphlets and annual reports, and
- ◆ other documents held as public database information (ASCOT).

As required by s9 of the FOI Act, ASIC advises that you may inspect and purchase by subscription the following documents from Thomson-CPD, phone 1800 036 186: *ASIC Digest*, which contains, among other things, regulatory documents, information brochures, media releases, ASIC advisories, information releases, summaries of most ASIC instruments, class orders, and proformas for various types of standard relief.

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 publishes (in formats accessible for people with disabilities) all its publicly available information on regulations, quasi-regulations and compliance reporting. This occurs through its website on the day materials are released, and in hard copy through ASIC's commercial publisher and on request through its Infoline. ASIC's website complies with accessibility guidelines, within the limits of the technology at its disposal.

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

- ◆ recruitment information is 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 in the financial year
- ◆ Human Resources staff advise managers and recruiters on reasonable adjustments required for job applicants and staff with disabilities (including staff access to training), and
- ◆ information on disability issues is included in training programs as appropriate.

Disclosure under the Environment Protection and Biodiversity Conservation Act

See 'ASIC in the environment' at page 60.

Disclosure under ASIC Act

As required by s136(2)(e), ASIC reports that in 2008–09 it did not exercise its powers under Pt 15 of the *Retirement Savings Account Act 1997* or under Pt 29 of the *Superannuation Industry (Supervision) Act 1993*. No relevant applications were received.

Procurement

The *Financial Management and Accountability Act 1997* primarily governs ASIC's use of Commonwealth resources and expenditure of public money. A central procurement team oversees procurement ensuring that all requirements are adequately met.

Responsibility for procurement lies with the appropriate financial delegates. To support them, the procurement team advises on risk management, probity, specification development and contract management.

The team also manages procurements of \$50,000 or more, and complex procurements below this amount that have been referred by delegates.

Qualified procurement officers with at least a Certificate IV in Government and Procurement, manage complex procurements ensuring ASIC follows the principles and policies of the *Commonwealth Procurement Guidelines*.

All major contracts entered into in 2008–09 contained provisions, as required, allowing the Auditor-General access to information held by contractors relating to contract performance.

APPENDICES (CONTINUED)

AusTender

ASIC advertises all tender opportunities through the AusTender website: www.tenders.gov.au.

ASIC has completed procurements to establish panels for the provision of the following goods and services:

- ♦ actuarial calculators
- ♦ computer forensics services
- ♦ hotels and accommodation
- ♦ IT consultancy services
- ♦ IT contracting services
- ♦ legal services
- ♦ recruitment services, and
- ♦ risk management consultancy services.

ASIC also undertook procurement for co-sourced internal audit services, PC and desktop refresh and building fit out.

Contracts of \$100,000 or more were reported on ASIC's 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. ASIC's annual procurement plan was published on AusTender by 1 July 2008, and was regularly updated during the year.

There were no contracts which were exempted from the contract reporting requirements.

Consultancy contracts

During 2008–09, 127 consultancy contracts were entered into involving total actual expenditure of \$4,530,437. In addition, 24 ongoing consultancy contracts were active during the 2008–09 year, involving total actual expenditure of \$281,432. In 2007–08 there were 105 new consultancies with an expenditure of \$8,836,668 and 86 ongoing involving \$817,670.

Disclosure under Commonwealth Electoral Act

Section 311A of *Commonwealth Electoral Act 1918* requires ASIC to report for the 2008–09 financial year on payments (exclusive of GST) made by it or on its behalf to:

- ♦ advertising and polling organisations: Department of Treasury, \$24,869
- ♦ market research organisations: Newspoll Market Research, \$26,543; Data Explorers Ltd, \$58,713; IBIS World Business Information, \$20,700; Galexia Pty Ltd, \$10,000; Investment Trends Pty Ltd, \$100,000; Chant Link and Associates, \$25,343; SuperRatings, \$21,500; Brandmanagement, \$70,735
- ♦ direct mail organisations: Recall Information Management \$447,188; Hermes Precisa, \$219,995, and
- ♦ media advertising organisations: Adcorp Australia Pty Ltd, \$39,819; HMA Blaze \$370,791.

Disclosure under CDDA Scheme

In 2008–09 ASIC made payments under the Compensation for Detriment Caused by Defective Administration Scheme totalling \$38,024.66.

Agency resource statement

ASIC resource statement, 2008–09*
\$'000

	Budget* 2008–09 (1)	Actual expenses 2008–09 (2)	Variation column (1) minus column (2)
A Administered expenses funded by administered appropriations	50,519	62,995	(12,476)
Total administered expenses†	50,519	62,995	(12,476)

B Departmental expenses funded by departmental appropriations

Outcome 1: A fair and efficient market characterised by integrity and transparency and supporting confident and informed participation of investors and consumers

Output group 1.1: Australian Securities and Investments Commission

Output 1: Policy and guidance about the laws administered by ASIC	17,313	18,449	(1,136)
Output 2: Comprehensive and accurate information on companies and corporate activity	75,472	59,177	16,295
Output 3: Compliance, monitoring and licensing of participants in the financial system to protect consumer interests and ensure market integrity	66,189	69,182	(2,993)
Output 4: Enforcement activity to give effect to the laws administered by ASIC	151,152	147,985	3,167
Total departmental expenses	310,126	294,793	15,333
Total for outcome 1 (A + B)	360,645	357,788	2,857
Staffing (Average FTE)		1,698	

* Based on the revised 2008–09 budget as set out in the 2008–09 Portfolio Additional Estimates Statements.

† Administered expenses are the accrual-based expenses ASIC administers on behalf of the Government. They include refunds to bank and deposit-taking institution account holders, life insurance policy holders, grants under the Assetless Administration Fund and write-down and impairment of assets.

APPENDICES (CONTINUED)

Six-year statistical summary

Business data	2008–09	2007–08	2006–07	2005–06	2004–05	2003–04
Companies (total)	1,700,891	1,645,805	1,572,054	1,480,684	1,427,573	1,359,305
New companies registered	137,410	149,403	156,424	121,298	121,463	122,441
Authorised financial markets	16*	17	17	15	13	8
Licensed clearing and settlement facilities	5	5	5	5	5	4
Australian financial services licensees	4,803	4,768	4,625	4,415	4,135	3,853
Registered company auditors	5,345	5,495	5,658	5,848	6,163	6,506
Registered liquidators	660	674	689	747	762	758
Registered managed investment schemes	4,651	5,108	4,680	4,310	4,093	3,765
Fundraising documents lodged [†]	776	1,011	960	808	1,064	1,148
Product disclosure 'in use' notices [‡]	6,390	9,708	10,066	12,480	12,708	7,563
Takeovers [†]	47	113	65	60	68	67

* Excludes 8 exempt professional markets and 57 exempt low volume markets. Golden Circle Ltd licence was cancelled on 8 August 2008.

† The decline in 2008–09 was due to decreased activity during the GFC.

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

ASIC performance data	2008–09	2007–08	2006–07	2005–06	2004–05	2003–04
Criminals jailed	19	23	21	17	27	28
Fundraising where ASIC required additional disclosure	\$4bn	\$3bn	\$17bn	\$10bn	\$6bn	\$4bn
Recoveries, costs compensation, fines or assets frozen	\$28m*	\$146m	\$140m	\$215	\$123	\$121
% successful litigation	90%	94%	97%	94%	94%	93%
Litigation concluded	186 [†]	280	430	386	193	220
Reports of crime and misconduct	13,633	11,436	10,682	12,075	10,752	9,970
Total searches of ASIC databases	60m	51m	55m	45m	36m	36m
% company data lodged on time	95%	95%	95%	94%	94%	92%
Fees and charges raised for the Commonwealth	\$552m	\$545m	\$519m	\$543m	\$531m	\$457m
Staff (average FTEs)	1,698	1,669	1,610	1,471	1,570	1,531
Financial summary (\$m)						
<i>Operations</i>						
Total operating expenses	295	274	256	218	208	196
Total operating revenue	315	292	258	225	208	191
<i>Financial position</i>						
Current assets	116	128	59	41	23	23
Non-current assets	96	50	50	37	35	35
Current liabilities	79	79	67	58	46	43
Non-current liabilities	21	23	21	13	11	20
Total equity	112	76	21	7	1	(5)

* ASIC has taken action to recover money in the Opes Prime and Westpoint matters. See page 16.

† In 2008–09 ASIC concentrated on a smaller number of cases where retail investor/consumer interests or market integrity is most at risk.

FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2009

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INDEPENDENT AUDITOR'S REPORT

To the Minister for Financial Services, 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 2009, which comprise: a Statement by the Chairman and Chief Financial Officer; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedules of Commitments, Contingencies and Administered items, and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

Responsibility of the Chairman of the Commission for the Financial Statements

The Chairman of the Commission is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the 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. I conducted my audit 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

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accounting policies used and the reasonableness of accounting estimates made by 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*, including Australian Accounting Standards; 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 2009 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



P Hinchey
Senior Director
Delegate of the Auditor-General

Sydney
7 August 2009

STATEMENT BY CHIEF EXECUTIVE
AND CHIEF FINANCIAL OFFICER

In our opinion, the attached financial statements for the year ended 30 June 2009 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*, as amended.

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



A. M. D'Aloisio
Chairman
7 August 2009



M. M. Haerewa
Chief Financial Officer
7 August 2009

INCOME STATEMENT
FOR THE YEAR ENDED 30 JUNE 2009

	Notes	2009 \$'000	2008 \$'000
INCOME			
Revenue			
Revenues from Government ¹	3A	307,796	282,218
Rendering of services	3B	3,370	4,370
Interest	3C	–	6
Royalties	3D	236	325
Other revenues	3E	3,036	4,944
Total revenue		314,438	291,863
Gains			
Other gains	3F	130	126
Total income	33B	314,568	291,989
EXPENSES			
Employee benefits	4A	176,792	164,676
Suppliers	4B	97,437	92,930
Depreciation and amortisation	4C	19,191	15,554
Finance costs	4D	468	306
Write-down of assets	4E	896	334
Net losses from sale of assets	4F	9	6
Total expenses	33B	294,793	273,806
Surplus²		19,775	18,183

1 Revenues from Government for 2008–09 includes \$10 million received by ASIC to fund regulatory initiatives resulting from the Global Financial Crisis.

2 The surpluses for 2008–09 and 2007–08 largely result from changes to the timing of expenditure for a major IT project. Revenue from Government received to fund this initiative will be utilised in future financial years.

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

BALANCE SHEET

AS AT 30 JUNE 2009

	Notes	2009 \$'000	2008 \$'000
ASSETS			
Financial assets			
Cash and cash equivalents	5A	2,950	8,415
Trade and other receivables	5B	108,366	116,875
<i>Total financial assets</i>		<u>111,316</u>	<u>125,290</u>
Non-financial assets			
Leasehold improvements	6A	27,043	24,303
Plant and equipment	6B	17,241	6,792
Intangibles	6C	52,149	18,742
Other non-financial assets	6D	4,247	2,686
<i>Total non-financial assets</i>		<u>100,680</u>	<u>52,523</u>
Total assets		<u>211,996</u>	<u>177,813</u>
LIABILITIES			
Payables			
Suppliers	7A	16,183	20,678
Other payables	7B	24,880	26,211
<i>Total payables</i>		<u>41,063</u>	<u>46,889</u>
Interest bearing liabilities			
Leases	8A	–	188
<i>Total interest bearing liabilities</i>		<u>–</u>	<u>188</u>
Provisions			
Employee provisions	9A	51,652	43,636
Other provisions	9B	6,696	11,150
<i>Total provisions</i>		<u>58,348</u>	<u>54,786</u>
Total liabilities		<u>99,411</u>	<u>101,863</u>
Net assets		<u>112,585</u>	<u>75,950</u>
EQUITY			
Contributed equity		76,214	59,354
Reserves		8,900	8,900
Accumulated surplus/(deficit)		27,471	7,696
Total equity		<u>112,585</u>	<u>75,950</u>
Current assets		115,563	127,976
Non-current assets		96,433	49,837
Current liabilities		78,685	78,999
Non-current liabilities		20,726	22,864

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

STATEMENT OF CHANGES IN EQUITY
FOR THE YEAR ENDED 30 JUNE 2009

	Notes	Accumulated surplus/(deficit)		Asset revaluation reserves		Contributed equity		Total equity	
		2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Opening balance		7,696	(10,487)	8,900	11,199	59,354	20,596	75,950	21,308
<i>Income and expense</i>									
Revaluation									
Leasehold improvements ¹	6E	-	-	-	198	-	-	-	198
Restoration obligations ¹	9B	-	-	-	(2,497)	-	-	-	(2,497)
Surplus		19,775	18,183	-	-	-	-	19,775	18,183
Total income and expenses		19,775	18,183	-	(2,299)	-	-	19,775	15,884
<i>Contributions by owners</i>									
Appropriations – contributed equity									
Finance Minister's determination ² :									
No. 36 of 2008–09 Schedule 2 and Schedule 3		-	-	-	-	(1,757)	-	(1,757)	-
No. 38 of 2008–09 Schedule 2		-	-	-	-	(1,407)	-	(1,407)	-
No. 39 of 2008–09 Schedule 1		-	-	-	-	(571)	-	(571)	-
Closing balance		27,471	7,696	8,900	8,900	76,214	59,354	112,585	75,950

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.

2 ASIC received funding in 2007–08 and 2008–09 in respect of the Standard Business Reporting cross-agency initiative. On 25 June 2009, the Finance Minister formally determined to reduce a portion of ASIC's appropriation for this project and reallocate the funding to other agencies connected with the project. The total adjustment recognised directly in equity is \$3.735m. This relates to a reduction in the 2008–09 equity injection and prior year appropriations (Note: 28A refers).

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

CASH FLOW STATEMENT
FOR THE YEAR ENDED 30 JUNE 2009

	Notes	2009 \$'000	2008 \$'000
Operating activities			
Cash received			
Appropriations		315,501	245,376
Services		4,832	4,761
Interest		–	6
Net GST received		15,169	8,996
Other cash received		3,272	5,946
Total cash received		338,774	265,085
Cash used			
Employees		168,805	154,999
Suppliers		127,629	102,878
Finance costs		3	40
Return of ESA court costs recovered to Government		–	171
Transfer to the Official Public Account ¹		–	45,206
Total cash used		296,437	303,294
Net cash from / (used by) operating activities	10	42,337	(38,209)
Investing activities			
Cash received			
Proceeds from sales of leasehold improvements, plant and equipment	4F	2	–
Cash used			
Purchase of leasehold improvements, plant and equipment and intangibles	6E	64,476	17,732
Net cash used by investing activities		(64,474)	(17,732)
Financing activities			
Cash received			
Appropriations – contributed equity		16,860	13,390
Cash used			
Repayment of finance lease principal		188	694
Net cash from financing activities		16,672	12,696
Net increase / (decrease) in cash held		(5,465)	(43,245)
Cash and cash equivalents at the beginning of the reporting period		8,415	51,660
Cash and cash equivalents at the end of the reporting period	5A	2,950	8,415

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.

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

SCHEDULE OF COMMITMENTS

AS AT 30 JUNE 2009

	2009 \$'000	2008 \$'000
By type		
Commitments payable		
Capital commitments		
Leasehold improvements ¹	2,968	–
Plant and equipment ¹	3,118	3,874
Intangibles	3,086	1,919
Total capital commitments	9,172	5,793
Other commitments		
Operating leases ^{2, 3, 4}	268,750	102,805
Other commitments (goods and services)	30,470	17,942
Total other commitments	299,220	120,747
Less: commitments receivable		
GST recoverable on commitments ⁴	28,036	11,504
Total commitments receivable	28,036	11,504
Net commitments by type	280,356	115,036
By maturity		
Commitments payable		
Capital commitments		
One year or less	9,172	5,793
Total capital commitments	9,172	5,793
Operating lease commitments ⁴		
One year or less	23,523	20,071
From one to five years	100,456	48,325
Over five years	144,771	34,409
Total operating lease commitments	268,750	102,805
Other commitments (goods and services)		
One year or less	30,470	17,919
From one to five years	–	23
Total other commitments	30,470	17,942
Less: commitments receivable		
GST recoverable on commitments ⁴		
One year or less	5,742	3,980
From one to five years	9,132	4,396
Over five years	13,162	3,128
Total commitments receivable	28,036	11,504
Net commitments by maturity	280,356	115,036

1 Outstanding contractual payments for purchases of leasehold improvements, plant and equipment and intangibles.

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

Nature of lease	General description of leasing arrangement
Leases for office accommodation	Subject to fixed increases and annual or bi-annual rent reviews.
Motor vehicles – senior executives	No contingent rentals exist. There are no purchase options available to ASIC.
Office equipment	No contingent rentals exist. There are no purchase options available to ASIC.

3 During 2008–09, ASIC signed an agreement to consolidate its Sydney offices into one location at 100 Market Street.

4 The net commitments as at 30 June 2008 are \$8.466m higher than the amount disclosed in the 2007–08 financial statements. The difference relates to the GST attributable to operating leases for office accommodation which was omitted in the 2007–08 financial statements.

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 2009

	Note	2009 \$'000	2008 \$'000
Contingent assets			
Contingent receivables			
Balance from previous period		3,711	4,263
<i>Adjustments to prior period contingent receivables:</i>			
Assets recognised		(988)	(773)
Estimates not realisable		(1,823)	(1,310)
Revisions to estimates		(263)	51
New contingent receivables		531	1,480
Total contingent assets	11	1,168	3,711

Contingent liabilities

As at 30 June 2009 ASIC estimates the value of contingent liabilities to be \$0.12m (2008: 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 2009

	Notes	2009 \$'000	2008 \$'000
Income administered on behalf of Government			
Revenue			
Non-taxation revenue			
Corporations Act fees and fines ¹	18A	551,728	544,524
Banking Act unclaimed monies ²	18A	45,216	39,457
Life Insurance Act unclaimed monies ³	18A	6,972	5,849
Total revenues administered on behalf of Government		603,916	589,830
Gains			
Other gains	18B	29	25
Total income administered on behalf of Government	22	603,945	589,855
Expenses administered on behalf of Government			
Suppliers ⁴	19A	3,076	966
Write-down of assets	19B	28,975	22,506
Other expenses	19C	30,944	29,445
Total expenses administered on behalf of Government	22	62,995	52,917

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) Act 2001* and *Corporations (Review Fees) Act 2003*. This revenue is not available to ASIC and is 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 (CONTINUED)
AS AT 30 JUNE 2009

	Notes	2009 \$'000	2008 \$'000
Assets administered on behalf of Government			
Financial assets (current)			
Cash and cash equivalents	20A	3,072	3,064
Receivables	20B	86,321	83,059
<i>Total assets administered on behalf of Government</i>		<u>89,393</u>	<u>86,123</u>
Liabilities administered on behalf of Government			
Payables (current)			
Suppliers	21A	6,414	4,843
<i>Administered assets less administered liabilities</i>	22	<u>82,979</u>	<u>81,280</u>

Note: Intra government transactions have been omitted.

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

SCHEDULE OF ADMINISTERED ITEMS (CONTINUED)
 FOR THE YEAR ENDED 30 JUNE 2009

	Notes	2009 \$'000	2008 \$'000
Administered cash flows			
Operating activities			
Cash received			
Corporations Act fees and charges		520,595	516,394
Banking Act unclaimed monies		45,216	39,457
Life Insurance Act unclaimed monies		6,972	5,849
Net GST received		198	116
Total cash received		572,981	561,816
Cash used			
Refunds paid to:			
Deposit taking institution account holders		26,122	24,315
Life insurance policy holders		4,793	5,105
Suppliers		2,807	1,411
Total cash used		33,722	30,831
Net cash from operating activities	23	539,259	530,985
Net increase in cash held		539,259	530,985
Cash and cash equivalents at the beginning of the reporting period		3,064	2,506
Cash from Official Public Account for:			
– Appropriations	22	40,120	35,028
		43,184	37,534
Less: Cash to Official Public Account for:			
– Corporations Act fees and charges		526,709	520,149
– Banking Act unclaimed monies		45,216	39,457
– Life Insurance Act unclaimed monies		6,972	5,849
– Return of 2007–08 unspent appropriation		474	–
	22	579,371	565,455
Cash and cash equivalents at end of reporting period	20A	3,072	3,064

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

SCHEDULE OF ADMINISTERED ITEMS (CONTINUED)
AS AT 30 JUNE 2009

Administered commitments

As at 30 June 2009 ASIC has administered commitments payable of \$0.5m (2008: \$0.8m). This relates to services from registered insolvency practitioners to investigate suspected breaches of directors' duties and fraudulent misconduct. All administered commitments payable are due within 1 year.

As at 30 June 2009 ASIC has administered commitments receivable of \$0.05m (2008: \$0.07m). 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 2009 (2008: nil).

Administered contingent liabilities

Payables – Refunds to claimants

	2009 \$'000	2008 \$'000
Banking Act administration ¹	35,709	36,962
Life Insurance Act unclaimed monies ²	6,387	7,345
	42,096	44,307

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 2009 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 2009 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 2009

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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*, 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 2001* and prescribed fees set by the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003* (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 (or FMOs) for reporting periods ending on or after 1 July 2008; 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 or a future sacrifice of economic benefits will be required 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 the Schedule 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 Changes in Australian Accounting Standards

Adoption of new Australian Accounting Standard requirements

No accounting standard has been adopted earlier than the application date as stated in the standard. No new accounting standards, amendments to standards and interpretations issued by the Australian Accounting Standards Board that are applicable to the current period, have had a material financial impact on ASIC.

Future Australian Accounting Standard requirements

No new standards, amendments to standards or interpretations that have been issued by the Australian Accounting Standards Board and are effective for future reporting periods, are expected to have a material financial impact on ASIC.

1.5 Reporting of administered activities

ASIC collects and administers revenue under the *Corporations Act 2001* and prescribed fees set by the *Corporations (Fees) Act 2001* and *Corporations (Review Fees) Act 2003*. This revenue is not available to ASIC and is 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 when ASIC gains control of the appropriation, 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.

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 associated 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 allowance for bad and doubtful debts. Collectability of debts is reviewed at balance date. Allowances 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*.

Note 1: Summary of significant accounting policies (continued)

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.

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.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements.

Resources received free of charge are recorded as either revenue or gains depending on their nature, ie whether they have been generated in the course of the ordinary activities of ASIC.

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.

Other distributions to owners

The FMOs require that distributions to owners be debited to contributed equity unless in the nature of a dividend. On 25 June 2009, the Finance Minister issued a determination to reduce ASIC's departmental output appropriations by \$3.735m in respect of prior year appropriations and ASIC's 2008-09 equity injection. This amount is shown as a reduction to contributed equity and a reduction to appropriation receivable.

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 *Employee Benefits*) 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.

Separation and redundancy

Provision is made for separation and redundancy benefit payments. ASIC recognises a provision for termination when it has developed a detailed formal plan for the terminations.

Note 1: Summary of significant accounting policies (continued)

1.9 Employee benefits (continued)

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 and cash equivalents includes notes and coins held and any deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.

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 AASB 139 *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. 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 AASB 139 *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 the amount cannot be reliably measured. Contingent assets are reported when the chance of settlement is probable but not virtually certain. Contingent liabilities are disclosed when the chance of settlement is greater than remote.

Note 1: Summary of significant accounting policies (continued)

1.16 Acquisition of assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor agency's accounts immediately prior to the restructuring.

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 \$2,000, 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 recognised.

Revaluations

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

<u>Asset class</u>	<u>Fair value measured at</u>
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.

Note 1: Summary of significant accounting policies (continued)

1.17 Leasehold improvements, plant and equipment (continued)

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:

	2009	2008
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 95 years
Plant and equipment (leased)	2 to 5 years	2 to 5 years

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 (2008: 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).

Note 1: Summary of significant accounting policies (continued)

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 (DoFD). 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.

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) Act 2001* and *Corporations (Review Fees) Act 2003*. 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. Impairment allowances are recognised when collection of the debt is no longer probable.

Receivables

Administered revenue is recognised at its nominal value 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 impairment allowance of the remaining debts is estimated using sampling methodologies.

Administered receivables that are irrecoverable at law or are uneconomic to pursue are written off under section 34 of the FMA Act.

Note 1: Summary of significant accounting policies (continued)

1.20 Reporting of administered activities (continued)

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* 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* 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.

1.21 Expenditure of boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001* 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 29 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 33.

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 33 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 \$1,000 except in relation to the following:

- remuneration of Commissioners;
- remuneration of senior 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.

Note 3: Income

	Note	2009 \$'000	2008 \$'000
Revenue			
Note 3A: Revenues from Government			
Appropriation:			
Departmental outputs		280,699	260,376
Departmental Special Account	32A	27,097	21,842
Total revenues from Government		307,796	282,218
Note 3B: Rendering of services			
Rendering of services to related entities		2,022	1,590
Rendering of services to external entities		1,348	2,780
Total rendering of services		3,370	4,370
Note 3C: Interest			
Deposits		–	6
Total interest		–	6

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 2009* 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		236	325
Total royalties		236	325

Note 3E: Other revenues

Cost recoveries ¹		1,754	3,160
Receipt from the Companies and Unclaimed Moneys Special Account ²		526	504
Professional and witness fees		335	335
Recovery of property rental and outgoings relating to prior year		18	148
AusAID revenue ³		261	585
Miscellaneous		142	212
Total other revenue		3,036	4,944

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)

	Note	2009 \$'000	2008 \$'000
Gains			
Note 3F: Other gains			
Resources received free of charge	15	130	126
Total other gains		130	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 \$129,904 (2008: \$125,645) for the reporting period.

Note 4: Expenses

Note 4A: Employee benefits

Salaries		135,819	124,580
Superannuation ¹			
Defined benefit schemes		13,867	14,289
Defined contribution schemes		7,914	5,794
Leave and other entitlements		17,780	16,960
Separation and redundancies ²		1,412	3,053
Total employee benefits		176,792	164,676

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 29.4% (2008: 30.8%), the Public Sector Superannuation Scheme was 13.8% (2008: 13.8%), the PSS Accumulation Scheme was 15.4% (2008: 15.4%), and the superannuation productivity benefit was approximately 2.0% to 3.0% (2008: 2.0% to 3.0%).

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

Note 4B: Suppliers

Goods from related entities		7	13
Goods from external entities		3,305	2,892
Services from related entities		5,789	6,331
Services from external entities		70,113	65,920
Operating lease rentals from external entities:			
Minimum lease payments		16,457	16,528
Sublease payments		160	–
Workers compensation premiums		1,416	910
Fringe benefits tax		190	336
Total suppliers expenses		97,437	92,930

Note 4: Expenses (continued)

	Notes	2009 \$'000	2008 \$'000
Note 4C: Depreciation and amortisation			
Depreciation:			
Leasehold improvements		6,556	5,372
Plant and equipment		4,643	3,844
Total depreciation		11,199	9,216
Amortisation:			
Intangibles – Computer software		7,835	6,200
Assets held under finance leases		157	138
Total amortisation		7,992	6,338
Total depreciation and amortisation		19,191	15,554
Note 4D: Finance costs			
Finance leases		3	40
Unwinding of restoration provision discount	9B	465	266
Total finance costs		468	306
Note 4E: Write-down of assets			
Bad and doubtful debts expense		130	148
Write-off of leasehold improvements, plant and equipment and intangibles		766	186
Total write-down of assets		896	334
Note 4F: Net losses from sale of assets			
Leasehold improvements, plant and equipment			
Carrying value of assets sold	6E	11	6
Less: proceeds from sale		2	–
Total net losses from sale of assets		9	6
Note 5: Financial assets			
Note 5A: Cash and cash equivalents			
Cash on hand or on deposit	28A	2,950	8,415
Total cash and cash equivalents	17A	2,950	8,415

Note 5: Financial assets (continued)

	Note	2009 \$'000	2008 \$'000
Note 5B: Trade and other receivables			
Goods and services		2,262	3,644
Appropriations receivable ^{1, 2}	28A	103,016	111,450
Net GST receivable from the ATO		3,457	2,020
Total trade and other receivables (gross)		108,735	117,114
Less Allowance for doubtful debts:			
Goods and services		369	239
Total trade and other receivables (net)		108,366	116,875

1 The balance of Appropriations receivable at 30 June 2009 represents the balance of funds available to ASIC on demand in respect of Departmental outputs, equity injections and the Enforcement Special Account.

2 Appropriations receivable as at 30 June 2008 is \$1.215m higher than the amount reported in the 2007–08 financial statements. The increase relates to an amount returned to the Official Public Account (OPA) in a prior year which was offset against the unearned appropriation in the 2007–08 financial statements. Departmental appropriations are non-lapsing, therefore the return of appropriation to the OPA does not impact on ASIC's legal entitlement to it. The increase in Appropriations receivable has also been reflected in the balance carried forward from the previous period shown in Note 28A.

Receivables are aged as follows:

Not overdue	108,305	116,696
Overdue by:		
Less than 30 days	110	157
30 to 60 days	4	5
61 to 90 days	–	1
More than 90 days	316	255
Total receivables (gross)	108,735	117,114

The allowance for doubtful debts is aged as follows:

Overdue by:		
Less than 30 days	70	–
More than 90 days	299	239
Total allowance for doubtful debts	369	239

Reconciliation of the movement in the allowance for doubtful debts

Opening balance 1 July	239	93
Amounts written off	–	(2)
Amounts recovered and reversed	(2)	–
Increase in allowance for doubtful debts recognised in net surplus	132	148
Closing balance	369	239

Note 6: Non-financial assets

	2009 \$'000	2008 \$'000
Note 6A: Leasehold improvements		
Leasehold improvements		
– work in progress	2,468	1,148
– gross carrying value (at fair value)	39,292	32,071
– accumulated depreciation	(14,717)	(8,916)
Total leasehold improvements (non-current)	27,043	24,303

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.

The carrying value of leasehold improvements was reviewed at 30 June 2009. 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 2009.

Note 6B: Plant and equipment

Plant and equipment		
– gross carrying value (at fair value)	32,131	22,474
– accumulated depreciation	(14,890)	(15,682)
Total plant and equipment (non-current)	17,241	6,792

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.

The carrying value of plant and equipment assets was reviewed at 30 June 2009. The review 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 2009.

Note 6C: Intangibles – computer software

<i>Internally developed</i>		
– work in progress	18,132	6,047
– in use	23,848	34,098
– accumulated amortisation	(14,222)	(24,956)
	27,758	15,189
<i>Purchased</i>		
– work in progress	12,844	–
– in use	15,741	13,911
– accumulated amortisation	(4,194)	(10,358)
	24,391	3,553
Total intangibles (non-current)	52,149	18,742

No indicators of impairment were found for intangible assets at 30 June 2009.

Note 6: Non-financial assets (continued)

	2009 \$'000	2008 \$'000
Note 6D: Other non-financial assets		
Prepayments	4,247	2,686
Total other non-financial assets (current)	4,247	2,686

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 (2008-09)

	Leasehold improvements \$'000	Plant & equipment \$'000	Computer software internally developed \$'000	Computer software purchased \$'000	Total \$'000
As at 1 July 2008					
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)
Net book value 1 July 2008	24,303	6,792	15,189	3,553	49,837
Additions:					
by purchase	9,296	15,706	–	23,453	48,455
internally developed	–	–	18,109	–	18,109
Total additions ¹	9,296	15,706	18,109	23,453	66,564
Depreciation/amortisation expense	(6,556)	(4,800)	(5,220)	(2,615)	(19,191)
Write-offs	–	(446)	(320)	–	(766)
Disposals:					
Other disposals	–	(11)	–	–	(11)
Net book value 30 June 2009	27,043	17,241	27,758	24,391	96,433
Net book value as of 30 June 2009 represented by:					
Gross book value	41,760	32,131	41,980	28,585	144,456
Accumulated depreciation/ amortisation	(14,717)	(14,890)	(14,222)	(4,194)	(48,023)
	27,043	17,241	27,758	24,391	96,433

¹ Total purchases of \$66,563,599 comprises cash purchases of \$64,475,647 plus accrued capital expenditure of \$2,238,704 less accrued capital expenditure in 2007–08 of \$150,752.

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 (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 additions ¹	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 7: Payables

	Notes	2009 \$'000	2008 \$'000
Note 7A: Suppliers			
Trade creditors	17	16,183	20,678
Total suppliers payables		16,183	20,678

All suppliers payables are current.

Note 7B: Other payables

Unearned revenue – Government appropriations ^{1, 2}		12,577	13,306
Other unearned revenue		715	793
Rent payable		4,581	4,690
Property lease incentives ³		7,007	7,422
Total other payables		24,880	26,211

Other payables are represented by:

Current		15,032	15,646
Non-current		9,848	10,565
Total other payables		24,880	26,211

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 Unearned revenue – Government appropriations at 30 June 2008 is \$1.215m higher than the amount reported in the 2007–08 financial statements. The increase relates to the disclosure of an amount returned to the Official Public Account in a prior year which was offset against the unearned appropriation in the 2007–08 financial statements.

3 Total property lease incentives are disclosed as deferred rental expenditure at 30 June 2009. 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
Total finance leases		–	188

Payable:

Within one year			
Minimum lease payments		–	191
Deduct: future finance charges		–	(3)
Finance leases recognised on the balance sheet		–	188

ASIC's finance leases were in relation to certain IT assets. The leases, which expired during 2008–09, were non-cancellable and for fixed terms averaging 3 years, with a maximum of 5 years. The interest rate implicit in the leases averaged 5.6% (2008: 5.3%). The leased assets secured the lease liabilities.

Note 9: Provisions

	2009 \$'000	2008 \$'000
Note 9A: Employee provisions		
Salaries and bonuses	7,998	6,897
Annual leave entitlement	14,300	12,535
Long service leave entitlement ¹	27,630	24,002
Superannuation	322	202
Separations and redundancies	1,402	–
Total employee provisions	51,652	43,636
Employee provisions are represented by:		
Current	44,617	37,104
Non-current	7,035	6,532
Total employee provisions	51,652	43,636

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 provision 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 \$21,288,431(2008: \$17,480,358), and in excess of one year \$30,363,190 (2008: \$26,155,110).

Note 9B: Other provisions

Restructuring obligations ¹	–	4,204
Restoration obligations – leased premises	6,696	6,946
Total other provisions	6,696	11,150
Other provisions are represented by:		
Current	2,853	5,383
Non-current	3,843	5,767
Total other provisions	6,696	11,150

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.

Reconciliation of the opening and closing balance of restructure provision

Carrying amount 1 July	4,204	–
Additional provisions made	–	4,204
Amounts used	(4,204)	–
Closing balance 30 June	–	4,204

Note 9: Provisions (continued)

	2009 \$'000	2008 \$'000
Note 9B: Other provisions (continued)		
<i>Reconciliation of the opening and closing balance of restoration provision</i>		
Carrying amount 1 July	6,946	4,218
Additional provisions made	20	61
Revalued amounts	–	2,497
Amounts used	(643)	(80)
Amounts reversed	(92)	(16)
Unwinding of discount or change in discount rate	465	266
Closing balance 30 June	6,696	6,946

ASIC currently has 18 agreements (2008: 15) 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	2,950	8,415
Balance Sheet	2,950	8,415

Reconciliation of operating result to net cash from operating activities:

Operating result	19,775	18,183
Depreciation / amortisation	19,191	15,554
Net write-down of non-financial assets	766	186
Net loss on disposal of assets	9	6
(Increase) / decrease in net receivables ¹	8,509	(84,589)
(Increase) in prepayments	(1,561)	(676)
Increase in employee provisions	8,016	6,631
(Decrease) in supplier payables	(4,495)	(1,392)
Increase / (decrease) in other payables	(7,873)	7,888
Net cash from / (used by) operating activities	42,337	(38,209)

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

Note 11: Contingent liabilities and assets

Quantifiable contingencies (ASIC departmental)

As at the date of this report, there are 12 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 \$1.168m (2008: \$3.711m), which is disclosed as a contingent asset because realisation of this debt is not virtually certain.

As at the date of this report, there are two matters in respect of which ASIC reasonably expects to have an award of costs against it. ASIC has estimated the potential liability for costs in relation to these matters is \$0.12m (2008: nil).

Quantifiable contingencies (assets held in trust)

Companies Unclaimed Monies

Unclaimed monies held by ASIC, pursuant to Part 9.7 of the *Corporations Act 2001*, 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 \$920,000 (2008: \$895,000) represents an estimate of future claims for repayment from the Official Public Account. The estimate of future claims for repayment at 30 June 2009 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. As at the date of this report there are two matters where costs have been awarded against ASIC but which it is not possible to reliably estimate the liability at this time.

In addition, 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, two 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.

One further possible claim of this type has been notified to ASIC since 1 July 2008.

It is not yet possible in this case to assess the likelihood that proceedings will be commenced.

Future compensation claims

The "Scheme for Compensation for Detriment Caused by Defective Administration" (CDDA) is a method for agencies to provide compensation to persons who have been adversely affected by the maladministration of agencies, but who have no legal means to seek redress, such as a legal claim. It is not possible to estimate the value of potential future CDDA claims.

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.

There is one matter at the date of this report where ASIC reasonably expects to have an award of costs in its favour however it is not possible to reliably estimate the amount recoverable.

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 to 10 July 2009)
- B. G. Gibson (Commissioner)
- P. J. Boxall (Commissioner appointed on 12 December 2008)
- M. J. Dwyer (Commissioner appointed on 12 December 2008)
- G. J. Medcraft (Commissioner appointed on 12 December 2008)

Note that the appointment date of 12 December 2008 reflects the date of appointment by the Governor-General, the actual commencement date may have been later.

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) Act 2001* and *Corporations (Review Fees) Act 2003*.

Note 13: Remuneration of Commissioners

	2009 Commissioners	2008 Commissioners
The number of Commissioners of ASIC included in these figures are shown below in the relevant remuneration bands ¹ :		
\$145,000 to \$159,999	1	–
\$160,000 to \$174,999	1	–
\$175,000 to \$189,999	–	1
\$220,000 to \$234,999	1	–
\$250,000 to \$264,999	–	1
\$400,000 to \$414,999	1	–
\$445,000 to \$459,999	–	1
\$460,000 to \$474,999	1	–
\$520,000 to \$534,999	–	1
\$535,000 to \$549,999	1	–
Total number of Commissioners of ASIC	6	4
	2009 \$	2008 \$
Total remuneration received or due and receivable by Commissioners of ASIC:	1,962,588	1,411,538

1 Where Commissioners have been appointed during the year, the remuneration bands reflect the remuneration received from the period they commenced with ASIC.

Note 14: Remuneration of senior executives

	2009 Executives	2008 Executives
The number of senior executives who received or were due to receive total remuneration of \$130,000 or more:		
\$145,000 to \$159,999	2	2
\$160,000 to \$174,999	–	4
\$175,000 to \$189,999	4	2
\$190,000 to \$204,999	–	7
\$205,000 to \$219,999	4	3
\$220,000 to \$234,999	9	3
\$235,000 to \$249,999	7	3
\$265,000 to \$279,999	2	5
\$280,000 to \$294,999	2	3
\$295,000 to \$309,999	1	4
\$310,000 to \$324,999	3	1
\$340,000 to \$354,999	–	2
\$355,000 to \$369,999	–	1
\$370,000 to \$384,999	–	1
\$385,000 to \$399,999	1	1
\$400,000 to \$414,999	1	1
\$535,000 to \$549,999	1	–
\$550,000 to \$564,999	–	1
\$670,000 to \$684,999	–	1
Total	37	45

	2009 \$	2008 \$
The aggregate amount of total remuneration of executives shown above is:	9,342,696	11,978,457

The aggregate amount of estimated separation/termination benefit expenses charged to the Income Statement in respect of executives shown above is:	275,000	2,016,556
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Note 15: Remuneration of auditors

	2009 \$	2008 \$
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:	129,904	125,645

No other services were provided by the Auditor-General.

Note 16: Restructure

On 1 July 2008 responsibility for the Financial Literacy Foundation was transferred from the Treasury to ASIC. No assets or liabilities were transferred as a result of this restructure.

Note 17: Financial instruments

	2009 \$'000	2008 \$'000
Note 17A: Categories of financial instruments		
Financial assets		
Loans and receivables financial assets		
Cash and cash equivalents	2,950	8,415
Receivables for goods and services (net of allowance for doubtful debts)	1,893	3,405
Carrying amount of financial assets	4,843	11,820
Financial liabilities		
At amortised cost		
Trade creditors	16,183	20,678
Finance leases	–	188
Carrying amount of financial liabilities¹	16,183	20,866
Note 17B: Net income and (expense) from financial assets		
Loans and receivables		
Interest revenue	–	6
Impairment	(130)	(148)
Net gain/(loss) from financial assets	(130)	(142)
Note 17C: Net income and (expense) from financial liabilities		
Financial liabilities – at amortised cost		
Interest expense	(3)	(40)

Note 17D: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

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, 2009: \$2,262,411 (2008: \$3,644,400). ASIC has assessed the risk of the default on payment for each receivable and has allocated \$369,068 in 2009 (2008: \$239,302) 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.

Note 17: Financial instruments (continued)

Note 17E: Credit risk (continued)

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

	Not past due nor impaired 2009 \$'000	Not past due nor impaired 2008 \$'000	Past due or impaired 2009 \$'000	Past due or impaired 2008 \$'000
Loans and receivables				
Cash and cash equivalents	2,950	8,415	–	–
Receivables for goods and services (gross)	1,832	3,226	430	418
Total	4,782	11,641	430	418

Ageing of financial assets that are past due but not impaired for 2009:

	Overdue by				Total \$'000
	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	More than 90 days \$'000	
Loans and receivables					
Receivables for goods and services	40	4	–	17	61
Total	40	4	–	17	61

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

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

Note 17F: Liquidity risk

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

All ASIC's financial liabilities as at 30 June 2009 and 30 June 2008 are payable within 1 year.

As at 30 June 2009 ASIC has no financial liabilities payable on demand (2008: 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

	2009 \$'000	2008 \$'000
Revenue		
Note 18A: Non-taxation revenue		
Corporations Act fees ¹	479,002	476,856
Corporations Act fines	72,726	67,668
Corporations Act fees and fines	551,728	544,524
Monies received from banks and deposit taking institutions in respect of accounts inactive for seven or more years	45,216	39,457
Monies received from life insurance institutions and friendly societies for policies not claimed within seven years	6,972	5,849
Total non-taxation revenue	603,916	589,830

Corporations Act fees and fines

	2009 \$'000	2009 \$'000	2009 \$'000	2008 \$'000	2008 \$'000	2008 \$'000
	Fees	Fines	Total	Fees	Fines	Total
Mandatory collections ¹	429,482	72,250	501,732	428,470	66,960	495,430
Information broker fees ²	48,878	–	48,878	47,687	–	47,687
Other fees ²	642	–	642	699	–	699
Court receivables ³	–	476	476	–	708	708
	479,002	72,726	551,728	476,856	67,668	544,524

1 Fees and charges arise from actions which are mandatory under the *Corporations Act 2001*. Examples include fees prescribed in the *Corporations (Fees) Act 2001* and the *Corporations (Review Fees) Act 2003*.

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 2001*.

	2009 \$'000	2008 \$'000
Gains		
Note 18B: Other gains		
Resources received free of charge ¹	29	25
Total other gains	29	25

1 Financial statement audit services by the Auditor-General are provided free of charge to ASIC in relation to the audit of *Corporations Act 2001*, *Banking Act 1959*, *Life Insurance Act 1995*, and other administered items. The fair value of the audit services provided for the reporting period is \$28,516 (2008: \$25,000).

Note 19: Expenses administered on behalf of Government

	Notes	2009 \$'000	2008 \$'000
Note 19A: Suppliers			
Services from external parties ¹		3,076	966
Total suppliers expenses		3,076	966

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	26,963	20,930
Waiver of fees and charges owing ²		2,012	1,576
Total write-down and impairment of assets		28,975	22,506

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 122,441 items totalling \$22,008,675 (2008: 116,642 items totalling \$20,716,441).

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 14,241 items totalling \$2,011,653 (2008: 15,724 items totalling \$1,575,896).

Note 19C: Other expenses

Refunds paid to bank and deposit taking institution account holders	28B	26,122	24,315
Refunds paid to life insurance policy holders	28B	4,793	5,105
Audit fees	24	29	25
Total other expenses		30,944	29,445

Note 20: Assets administered on behalf of Government

	Note	2009 \$'000	2008 \$'000
Financial assets			
Note 20A: Cash and cash equivalents			
Cash at bank and on hand – Corporations Act		2,535	1,710
Cash at bank – Banking Act		456	456
Cash at bank – Life Insurance Act		5	5
Cash at bank – Insolvency law reform		76	893
Total cash and cash equivalents	27	3,072	3,064
Note 20B: Receivables			
Corporations Act:			
Corporations Act fees and charges		110,741	102,610
Information brokers fees		5,661	5,593
Other receivables:			
GST receivable from ATO		76	59
Total receivables		116,478	108,262
Less: Allowance for doubtful debts:			
Corporations Act		30,157	25,203
Total receivables (net)		86,321	83,059
Receivables are aged as follows:			
Not overdue		58,762	57,048
Overdue by:			
Less than 30 days		14,977	15,285
30 to 60 days		6,962	6,521
61 to 90 days		3,442	3,040
More than 90 days		32,335	26,368
Total receivables		116,478	108,262
The allowance for doubtful debts is aged as follows:			
Not overdue		388	384
Overdue by:			
Less than 30 days		719	702
30 to 60 days		965	777
61 to 90 days		773	645
More than 90 days		27,312	22,695
Total allowance for doubtful debts		30,157	25,203
Receivables are due from entities that are not part of the Australian Government.			
Reconciliation of the movement in the allowance for doubtful debts			
Opening balance 1 July		25,203	24,989
Amounts written off		(22,009)	(20,716)
Increase in allowance for doubtful debts recognised as an expense		26,963	20,930
Closing balance		30,157	25,203

Note 21: Liabilities administered on behalf of Government

	Note	2009 \$'000	2008 \$'000
Payables			
Note 21A: Suppliers			
Corporations Act refunds		3,111	2,567
Unallocated monies – Corporations Act		2,373	1,830
Trade creditors	27	930	446
Total suppliers		6,414	4,843

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>		81,280	74,769
Plus: Administered revenues		603,945	589,855
Less: Administered expenses		(62,995)	(52,917)
Appropriation transfers from OPA:			
Special appropriations (unlimited)		40,120	35,028
Transfers to OPA		(579,371)	(565,455)
Closing administered assets less administered liabilities as at 30 June		82,979	81,280

Note 23: Administered cash flow reconciliation

Reconciliation of net contribution to budget outcome to net cash provided by operating activities

Net contribution to budget outcome		540,950	536,938
Increase / (decrease) in allowance for doubtful debts		4,954	214
Increase in payables and provisions		1,571	229
(Increase) in receivables		(8,216)	(6,396)
		(1,691)	(5,953)
Net cash provided by operating activities		539,259	530,985

Note 24: Remuneration of auditors – administered items

	\$	\$
Financial statement audit services by the Australian National Audit Office 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:	28,516	25,000

Note 25: Administered contingent liabilities

Quantifiable administered contingencies

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

Unquantifiable administered contingencies

There are no unquantifiable administered contingent liabilities.

Note 26: Administered contingent assets

There are no administered contingent assets.

Note 27: Administered financial instruments

	2009 \$'000	2008 \$'000
Note 27A: Categories of financial instruments		
Financial assets		
Cash and cash equivalents	3,072	3,064
Financial liabilities		
At amortised cost		
Trade creditors	930	446

Note 27B: Fair values of financial instruments

The fair values of financial liabilities at amortised cost approximate their fair value.

Note 27C: Credit risk

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

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

Note 27D: 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 2009 and 30 June 2008 are payable within 1 year.

Note 28: Appropriations

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

Particulars	Departmental outputs		Ordinary annual services appropriation – Administered expenses	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Balance carried forward from previous period	119,865	53,726	419	748
Appropriation Act:				
Appropriation Act (No.1)	298,963	291,566	3,424	5,206
Appropriation Act (No.2)	17,117	37,210	–	–
Appropriation Act (No.3)	11,163	607	–	–
Appropriation Act (No.4)	3,478	1,548	–	–
Departmental adjustments by the Finance Minister (Appropriation Acts)				
– prior year appropriation	(3,164)	–	–	–
– Appropriation Act (No.1) 2008–09	(156)	–	–	–
– Appropriation Act (No.2) 2008–09	(571)	–	–	–
Administered appropriations lapsed (Appropriation Act section 11, 2008: section 8)	–	–	(348)	(4,240)
Enforcement Special Account:				
Appropriations credited to the Enforcement Special Account (ESA)	(30,000)	(30,000)	–	–
Amounts recognised as revenue due from the ESA	27,097	21,842	–	–
FMA Act:				
Appropriations to take account of recoverable GST (FMA Act section 30A)	15,169	8,996	198	116
Annotations to 'net appropriations' (FMA Act section 31)	8,106	10,713	–	–
Total appropriation available for payments	467,067	396,208	3,693	1,830
Cash payments made during the year (GST inclusive)	(361,101)	(276,343)	(2,807)	(1,411)
Balance of authority to draw cash from the CRF	105,966	119,865	886	419
Represented by				
Cash	2,950	8,415	76	893
Departmental appropriations receivable				
Enforcement Special Account (ESA)	8,839	5,636	–	–
Departmental outputs (other than ESA)	65,074	80,446	–	–
Equity injections	29,103	25,368	–	–
Total departmental appropriations receivable	103,016	111,450	–	–
Undrawn, unlapsd administered appropriation	n/a	n/a	810	(474)
Total	105,966	119,865	886	419

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 appropriations 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 1959*) to refund amounts to banking and deposit taking institution account holders.

All transactions under this Act are recognised as administered items.

	2009 \$'000	2008 \$'000
Budget estimate	21,780	20,000
Payments made	26,122	24,315

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 1995*) to refund amounts to life insurance policy holders.

All transactions under this Act are recognised as administered items.

	2009 \$'000	2008 \$'000
Budget estimate	2,760	8,000
Payments made	4,793	5,105

Note 28: Appropriations (continued)

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

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

Legal authority – *Corporations Act 2001*

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.

	Note	2009 \$'000	2008 \$'000
Budget estimate		6,000	6,000
Payments made		5,824	4,358

Corporations Act 2001 (Companies and Unclaimed Monies Special Account)

Legal authority – *Corporations Act 2001*

Purpose – ASIC has responsibility for the administration of unclaimed monies from the Companies and Unclaimed Monies Special Account. Monies that are not claimed within six years are transferred to the Commonwealth (Part 9.7 of the *Corporations Act 2001*), 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 32: Special Accounts.

		2009 \$'000	2008 \$'000
Budget estimate		–	–
Payments made	32B	767	303

Note 29: Expenditure relating to statutory boards and tribunal

Pursuant to Parts 11 and 12 of the *Australian Securities and Investments Commission Act 2001*, 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:

	2009 \$'000	2008 \$'000
Companies Auditors and Liquidators Disciplinary Board	1,074	1,289
Australian Accounting Standards Board	1,602	1,635
Superannuation Complaints Tribunal	4,612	4,568

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 30: Assets of deregistered companies vesting in ASIC

Section 601AD of the *Corporations Act 2001* 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 2001*. 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 31: Security deposits from dealers, investment advisers and liquidators

The *Corporations Act 2001* 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.

	2009 \$'000	2008 \$'000
Security deposits under Corporations Regulations 2001 regulation 7.6.02AA (dealers and investment advisers)		
Cash (at bank) ¹	63	43
Interest bearing deposits (at bank) ¹	320	380
Inscribed stock	20	20
Insurance bonds	20	20
Bank guarantees	25,820	35,230
Closing balance	26,243	35,693

1 Included in the balance of Security Deposits Special Account in Note 32D.

Security deposits under Corporations Act 2001 section 1284(1) (liquidators)

Insurance bonds	1,800	1,800
Bank guarantees	–	250
Closing balance	1,800	2,050

Note 32: Special Accounts

Note 32A: Enforcement Special Account (Departmental)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2006/31 – Enforcement Special Account Establishment 2006*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

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 matters of significant public interest.

	2009 \$'000	2008 \$'000
Balance carried forward from previous year	26,806	13,863
Appropriation for the reporting period	30,000	30,000
Available for payments	56,806	43,863
Cash repaid to the OPA	–	171
Cash payments from the Special Account ¹	(23,894)	(17,228)
Balance available to draw down next year ²	32,912	26,806

1 For the period ended 30 June 2009 ASIC recognised ESA revenue of \$27.097m (2008: \$21.842m), of which \$23.894m (2008: \$17.228m) was drawn down during the year.

2 The balance available to draw down as at 30 June 2008 is \$0.171m higher than the amount disclosed in the 2007–08 financial statements. The increase relates to court costs recovered by ASIC in respect of an ESA matter which were returned to the OPA. The return of funds to the OPA increases the amount of funds ASIC has available to draw down in future years.

Note 32B: Companies and Unclaimed Moneys Special Account (Administered) – established 1 July 2007

Legal authority – section 21 *Financial Management and Accountability Act 1997* and section 133 of the *Australian Securities and Investments Commission Act 2001*

Appropriation – section 21 *Financial Management and Accountability Act 1997*

Purpose – The Companies and Unclaimed Moneys Special Account (CUMSA) was established on 1 July 2007 when ASIC became a prescribed agency under the *Financial Management and Accountability Act 1997*. The CUMSA was established to administer unclaimed moneys received by ASIC under section 1341 of the *Corporations Act 2001*.

Note 32: Special Accounts (continued)

Note 32B: Companies and Unclaimed Moneys Special Account (Administered) – established 1 July 2007 (continued)

	2009 \$'000	2008 \$'000
Table A – Special Account		
Balance carried forward from previous year	9,378	–
Transfer from Assets held in trust ¹	–	206,281
Appropriation for the reporting period	767	303
Receipts during the year	72,588	44,105
Interest amounts credited	514	2,430
Investments realised	11,000	2,549
Available for payments	94,247	255,668
Cash transferred to Consolidated Revenue	(9,053)	(2,732)
Investments made from the Special Account	(46,000)	(207,064)
Disbursements	(26,760)	(33,535)
Administration costs	(584)	(659)
Special purpose disbursement	(2,948)	(2,300)
Balance carried to next period (excluding investment balances) and represented by:	8,902	9,378
Cash – held by ASIC	8,902	9,378

1 On 1 July 2007 ASIC became a prescribed agency under the FMA Act and on this date moneys ASIC administers under section 1341 of the *Corporations Act 2001* 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	214,262	–
Investments made from the Special Account	46,000	207,064
Investment income	12,430	9,747
Investments realised	(11,000)	(2,549)
Balance carried to next period	261,692	214,262

Note 32: Special Accounts (continued)

Note 32C: Deregistered Companies Trust Moneys Special Account (Trust)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/02 – ASIC Deregistered Companies Trust Moneys Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

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 2001*.

	Note	2009 \$'000	2008 \$'000
Balance carried forward from previous year		4,636	–
Transfer from Other Trust Moneys Special Account	32F	–	4,507
Receipts during the year		358	37
Interest received		79	105
Disbursements		(4,375)	(13)
Closing balance		698	4,636

Note 32D: ASIC Security Deposits Special Account (Trust)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/03 – ASIC Security Deposits Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

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.

	Note	2009 \$'000	2008 \$'000
Balance carried forward from previous year		423	–
Transfer from Other Trust Moneys Special Account	32F	–	443
Disbursements		(40)	(20)
Closing balance		383	423

Note 32: Special Accounts (continued)

Note 32E: ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account (Trust)

Legal authority – section 20(1) *Financial Management and Accountability Act 1997* and *Financial Management and Accountability Determination 2008/04 – ASIC Investigations, Legal Proceedings, Settlements and Court Orders Special Account Establishment 2008*

Appropriation – section 20 *Financial Management and Accountability Act 1997*

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	2009 \$'000	2008 \$'000
Balance carried forward from previous year		124	–
Transfer from Other Trust Moneys Special Account	32F	–	260
Receipts during the year		14	124
Interest received		4	6
Disbursements		(55)	(266)
Closing balance		87	124

Note 32F: Other Trust Moneys Special Account (Administered)

	2009 \$'000	2008 \$'000
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	53	4,794
Interest received	–	116
Disbursements	(52)	(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	1	–

Note 32G: Services for Other Governments and Non-Agency Bodies Special Account (Administered)

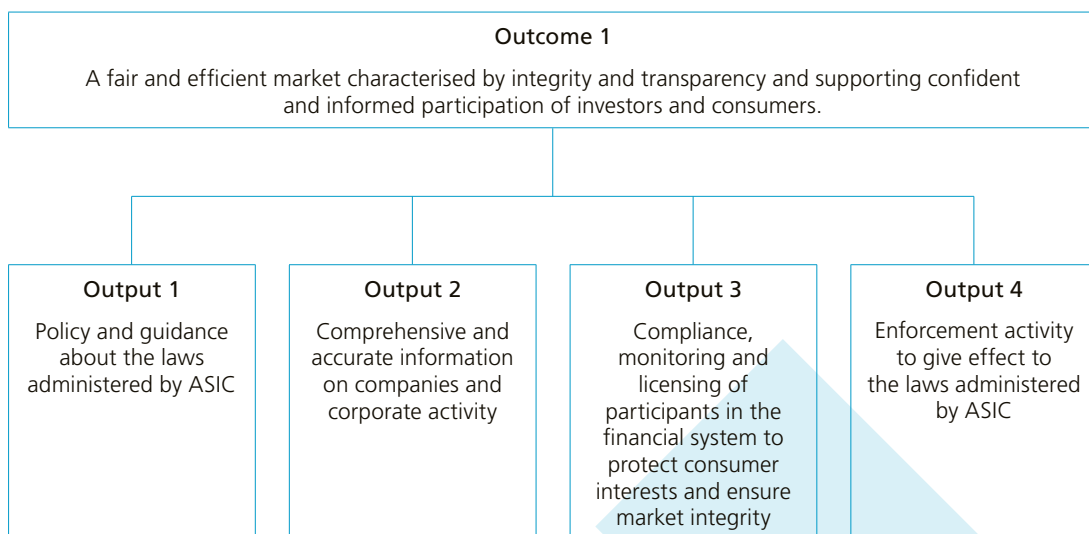
This Special Account was established on 31 December 1997 by the Department of Finance and Deregulation in accordance with the terms of section 2 of the FMA Act (“Services for Other Governments and Non-Agency Bodies Account”). There were no transactions in this account during the year and the balance of this account is nil (2008: nil).

Note 33: 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.



Note 33: Reporting of outcomes (continued)

Note 33A: Net contribution of outcome

	Outcome 1	
	2009 \$'000	2008 \$'000
Expenses		
Administered	62,995	52,917
Departmental	294,793	273,806
Total expenses	357,788	326,723
Costs recovered from provision of services to the non-government sector		
Departmental	1,348	2,780
Total costs recovered	1,348	2,780
Other external revenues		
Administered		
Non-taxation revenue	603,916	589,830
Departmental		
Interest	–	6
Other revenue	2,485	4,180
Total other external revenues	606,401	594,016
Net (contribution) of outcome	(249,961)	(270,073)

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 \$249.961m (2008: \$270.073m). 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 33: Reporting of outcomes (continued)

Note 33B: Major classes of departmental revenues and expenses by output

Outcome 1	Output 1		Output 2		Output 3		Output 4		Outcome 1 Total	
	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000	2009 \$'000	2008 \$'000
Departmental expenses										
Employee benefits	11,456	11,256	35,040	27,240	47,390	47,174	82,906	79,006	176,792	164,676
Suppliers	5,860	5,424	19,238	16,838	17,521	17,050	54,818	53,618	97,437	92,930
Depreciation and amortisation	1,057	922	4,573	2,605	3,984	3,840	9,577	8,187	19,191	15,554
Finance costs	29	12	95	88	111	50	233	156	468	306
Write-down of assets	46	20	229	54	174	83	447	177	896	334
Net losses from sale of assets	1	–	2	1	2	2	4	3	9	6
Total departmental expenses	18,449	17,634	59,177	46,826	69,182	68,199	147,985	141,147	294,793	273,806
Funded by:										
Revenues from Government	16,532	17,144	73,247	53,391	65,031	64,720	152,986	146,963	307,796	282,218
Rendering of services	204	26	690	3,150	804	811	1,672	383	3,370	4,370
Interest	–	–	–	1	–	2	–	3	–	6
Royalties	–	–	236	325	–	–	–	–	236	325
Other revenues	184	63	622	747	725	307	1,505	3,827	3,036	4,944
Resources received free of charge	8	16	27	21	31	21	64	68	130	126
Total departmental income	16,928	17,249	74,822	57,635	66,591	65,861	156,227	151,244	314,568	291,989

The surplus in Outputs 2 and 4 in 2008–09 and 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.

Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

Note 33C: Major classes of departmental assets and liabilities by outcome

All of ASIC's departmental assets and liabilities can be attributed to Outcome 1.

Note 33D: Major classes of administered income, expenses, assets and liabilities by outcome

All of ASIC's administered income, expenses, assets and liabilities can be attributed to Outcome 1.

Note 34: Compensation and debt relief

	2009 \$'000	2008 \$'000
Expenses incurred in relation to 4 matters dealt with under the "Compensation for Detriment caused by Defective Administration scheme" during the reporting period	43	–

End of financial statements

GLOSSARY

ABA	Australian Bankers Association	FTE	full time equivalent
ACCC	Australian Competition and Consumer Commission	G20	The Group of Twenty Finance Ministers and Central Bank Governors
ACT	Australian Capital Territory	GDP	gross domestic product
ADI	authorised deposit-taking institutions	GFC	global financial crisis
AFMA	Australian Financial Markets Association	GMAICD	Graduate Member of the Australian Institute of Company Director
AFS licence	Australian Financial Services Licence	ICA	Insurance Council of Australia
AICD	Australian Institute of Company Directors	ICAA	Institute of Chartered Accountants in Australia
AIMA	Alternative Investment Management Association	IMF	International Monetary Fund
APRA	Australian Prudential Regulation Authority	IPO	initial public offerings
APS	Australian Public Service	IOSCO	International Organization of Securities Commissions
ASFA	Association of Superannuation Funds of Australia Limited	JORC	Joint Ore Reserves Committee
ASIC	Australian Securities & Investments Commission	MIS	managed investment schemes
ASIC Act	Australian Securities and Investments Commission Act 2001	MRSO	Mutual Recognition of Securities Offerings
ASX	Australian Securities Exchange	NSW	New South Wales
AWA	Australian Workplace Agreement	NT	Northern Territory
BCA	Business Council of Australia	NZSC	Securities Commission in New Zealand
CA	Collective Agreement	OECD	Organisation for Economic Co-operation & Development
CALDB	Companies Auditors and Liquidators Disciplinary Board	OTC	over the counter
CDPP	Commonwealth Director of Public Prosecutions	Qld	Queensland
CFA	Consumers' Federation of Australia	RBA	Reserve Bank of Australia
EDGE	ASIC's electronic document lodgement system	SA	South Australia
EFT	electronic fund transfer	SDIA	Securities & Derivatives Industry Association
FaHCSIA	Department of Families, Housing, Community Services and Indigenous Affairs	SEC	Securities and Exchange Commission (US)
FAICD	Fellow, Australian Institute of Company Directors	SEL	Senior Executive Leaders
FCA	Fellow, Institute of Chartered Accountants	SF Fin	Senior Fellow, Financial Services Institute of Australasia
FMA Act	Financial Management and Accountability Act 1997	Tas.	Tasmania
FMOs	Finance Minister's Orders	UK	United Kingdom
FPA	Financial Planning Association	US	United States of America
		UUD	unlisted unrated debenture
		Vic.	Victoria
		WA	Western Australia

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ASIC online

www.asic.gov.au

For consumers and retail investors

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www.understandingmoney.gov.au

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Sydney

Until mid 2010: Level 18, 1 Martin Place

(For company registration, document lodgement, searches and fees: level 8, 55 Market Street)

From mid 2010, 100 Market Street

Adelaide: Level 7

100 Pirie Street

Brisbane: Level 20,

240 Queen Street

Canberra: Level 5

15 London Circuit

Darwin: Level 7

TIO Centre

24 Mitchell Street

Hobart: Level 2

70 Collins Street

Perth: Level 3

66 St Georges Terrace

Traralgon: 14–22 Grey Street

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