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 budget

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

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 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.*

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.

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

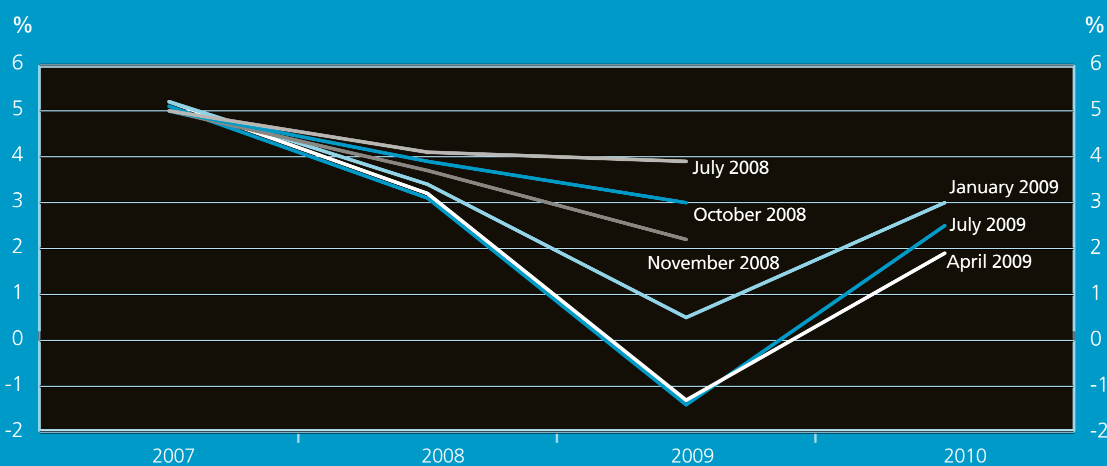
Financial markets were highly volatile in the 2008–09 financial year, both globally and in Australia. Across the world, financial conditions generally deteriorated for the first eight months of the year as actual and expected global economic conditions worsened, before recovering somewhat once some signs 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

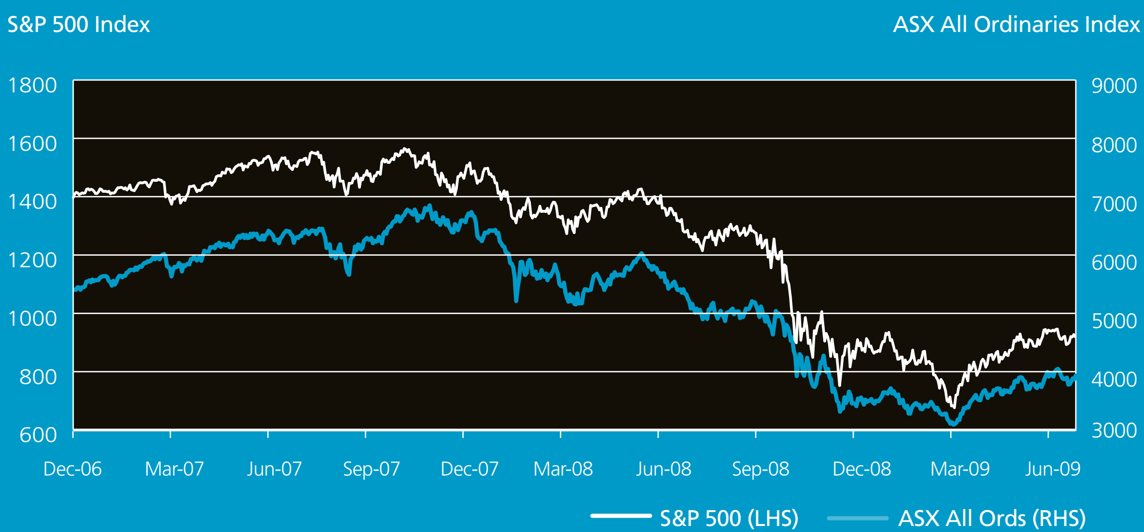
This rising threat led to unprecedented action on the part of governments and monetary authorities throughout the world, most notably in the US, the UK and the Euro area, aimed at stabilising the world financial system. The IMF estimated that, as of April 2009, authorities in the US, the UK and the Euro 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



Source: Bloomberg

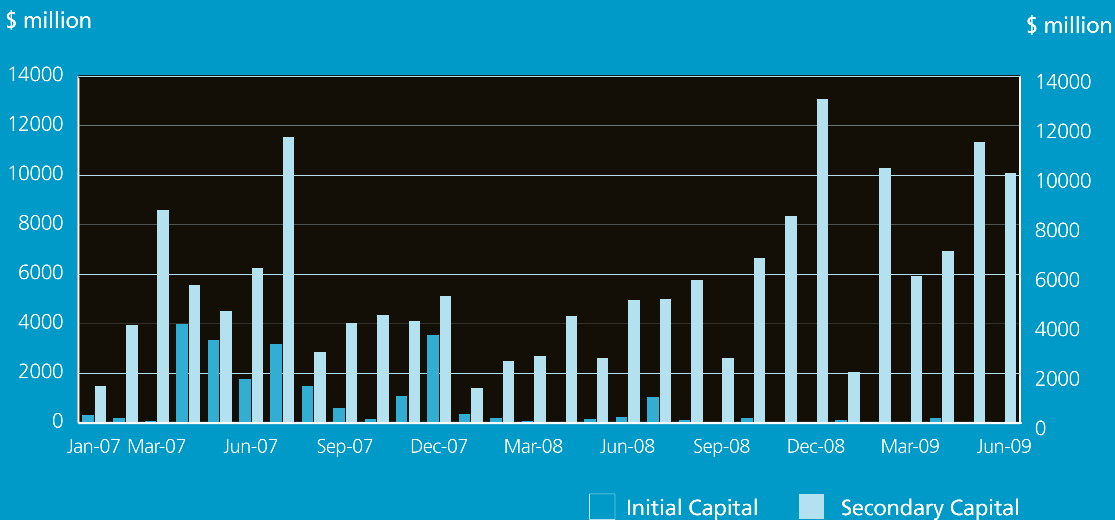
securities (RMBS) remained low, despite direct purchases after October 2008 by the Australian Office of Financial Management. To support the banking system, from late November 2008 the Government offered to guarantee Australian banks' wholesale funding and deposit liabilities.

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

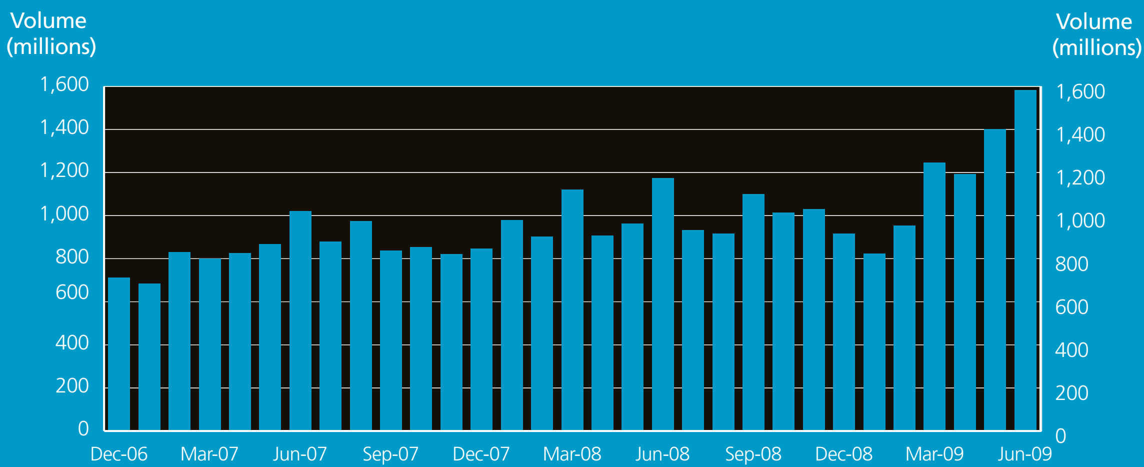
Retail investors suffered from losses in their direct and indirect investments in the stock market, in some managed investment schemes and from the suspension of redemptions from a number of mortgage funds. Many responded by taking out term deposits with authorised deposit-taking institutions.

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 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.

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

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.

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.