



**ASIC**

Australian Securities & Investments Commission

## **Statement on Westpoint**

By Mr Tony D'Aloisio, Chairman  
Australian Securities and Investments Commission to the  
Senate Standing Committee on Economics

**Wednesday, 30 May 2007**

## STATEMENT ON WESTPOINT

The purpose of this statement is to update the Senate Standing Committee on Economics of ASIC's Westpoint actions. The Westpoint group of companies and entities is made up of 68 entities and related parties. To date, ASIC's costs are \$8.6m against a budget of \$11.1m.

### 1. What are ASIC's objectives?

The following table sets out ASIC's objectives and the types of activities which are being covered by ASIC's investigation team.

<b>Objective</b>	<b>Possible actions (under investigation)</b>
1. To maximise the amount available to investors.	1.1. Freezing and insolvency orders. 1.2. Compensation claims against those involved including advisers.
2. To punish, and to deter, criminal and wrongful behaviour.	2.1. Actions for criminal convictions for wrongdoing. 2.2. Actions against unlicensed advising.
3. To enforce compliance with financial services licence obligations and obtain compensation from licensees.	3.1. Civil or licensing action against licensees and authorised representatives. 3.2. Compensation claims against licensees and authorised representatives.
4. To enforce compliance with auditing standards.	4.1. Companies Auditors and Liquidators Disciplinary Board proceedings.

### 2. What has ASIC achieved to date against those objectives?

The following table provides an update on achievements to date. A number of possible actions are still under investigation and, where that is the case, the ASIC team is working to a plan with target dates for completion of the investigation. The team reports to me and the Commission monthly. (The table has not included possible actions which, on investigation, have not been proven and have been dropped.)

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1.1 Freezing and insolvency orders.	<p>ASIC actions:</p> <ul style="list-style-type: none"><li>▪ Frozen between \$13m - \$54m against 13 individuals and companies.</li><li>▪ Obtained orders preventing 5 key individuals from leaving the country</li><li>▪ Twenty actions to wind up 18 insolvent companies or to secure assets.</li><li>▪ Secured and imaged (for the benefit of liquidators and third parties) all relevant evidence and documents within the Westpoint Group.</li></ul>
	<p>Other actions:</p> <ul style="list-style-type: none"><li>▪ Liquidators: Damages and recovery orders by Pricewaterhouse commenced against directors and associated entities for \$37.5 million in assets.</li></ul>
1.2 Compensation claims against those involved including advisers.	<ul style="list-style-type: none"><li>▪ ASIC investigations in progress on range of third party claims.</li><li>▪ Slater &amp; Gordon: Legal proceedings commenced against four licensees that provided Westpoint products totalling \$11.7 million.</li></ul>
2.1 Actions for criminal convictions for wrongdoing.	<ul style="list-style-type: none"><li>▪ Asset stripping: Investigating 9 transactions alleged to reduce assets available to creditors.</li><li>▪ Illegal fundraising: Investigating possible dishonest conduct and representations made from May 2000.</li></ul>
2.2 Action against unlicensed advising.	<ul style="list-style-type: none"><li>▪ 7 investigations on foot.</li></ul>
3.1 Banning of licensees.	<ul style="list-style-type: none"><li>▪ Investigations against 7 licensees and 23 authorised representatives on foot.</li></ul>
3.2 Compensation claims against licensees and unlicensed advisers.	<ul style="list-style-type: none"><li>▪ Examining and assessing opportunities to assist investors obtain, compensation from licensees, authorised representatives and unlicensed advisers.</li></ul>
3.3 Companies Auditors and Liquidators Disciplinary Board investigations.	<ul style="list-style-type: none"><li>▪ 3 investigations on foot.</li></ul>

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**3. What is the status of change to the threshold level of \$50,000 for promissory notes?**

ASIC has publicly suggested the need for a review of the monetary threshold limit for promissory notes. As far as ASIC can determine, the exclusion from the definition of 'debenture' of promissory notes with a face value of more than \$50,000 was set in 1981. In 1981, a face value of \$50,000 may have been an adequate proxy to classify instruments as professional market instruments and therefore as non-retail. ASIC wrote to Treasury on 24 May 2007 advising that a review of the threshold (upwards) is appropriate. In other words, to lift the threshold so that amounts under the threshold will require compliance with the debenture provisions of the Corporations Act.