

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 20-21 February 2008

Question: aet 4

Topic: Westpoint

Hansard Page: Written

Senator WATSON asked:

- Can ASIC update the committee on the Westpoint case, more specifically how investors in the property development group stand on receiving compensation?

Answer:

Westpoint Overview

- The Westpoint Group operated over 20 development projects in Perth, Sydney, Melbourne and Brisbane.
- Investors came from all over Australia.
- Unsecured losses for the Westpoint Group at the date of liquidation was approximately \$417million.
- The biggest losses occurred in the 6 projects – Ann Street Brisbane, Bayshore Melbourne, Bayview Heritage Melbourne, Market Street No 1 & 2 Melbourne, Mount Street North Sydney and York Street Sydney. The losses in these projects totalled approximately \$312million, with returns estimated at between \$22 and \$25 million.

ASIC Action

- ASIC commenced its Westpoint Taskforce in early 2006.
- ASIC has wound up 18 insolvent companies in the Group and has taken action to secure assets through the liquidation process in the vicinity of \$72 to \$94 million.
- ASIC has also taken asset preservation proceedings against former directors and officers and related companies covering assets of up to \$50 million. ASIC has taken these actions to enhance the possibility of recovery when compensation claims are finalised.
- ASIC has banned 11 advisers (including 10 authorised representatives) for periods between 3 years and life.
- One former promoter of Westpoint products, Mr Neil Burnard, has been committed for trial in relation to the raising of investor funds for Westpoint and his trial will take place in April 2008. As the matter is before the Court, the Commission cannot comment any further on these proceedings.

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- One Perth adviser, Annamieke De Boer, has pleaded guilty to a criminal charge in relation to stealing, with sentencing due in April 2008. As the matter is before the Court, the Commission cannot comment any further on these proceedings.

Westpoint Compensation

- ASIC has announced recovery claims against 6 financial services licensees and against a trustee of an unsecured note issue. Three proceedings have commenced with a further two expected to commence before the end of March. These proceedings will seek \$87.6 million in damages.
- ASIC has also announced that it will take over proceedings commenced by the liquidator on behalf of particular Westpoint mezzanine companies against officers and directors of those companies as well as associated entities of some of those companies. ASIC has also resolved to begin and carry on proceedings for similar types of claims on behalf of other Westpoint mezzanine companies. These actions will seek damages of up to \$245 million
- It is difficult at this stage to know when these recovery proceedings will be finalized and precisely how much will be recovered for investors. However, ASIC's actions will cover approximately 3,600 investors being approximately 85% of investors who lost money in the Westpoint collapse.
- ASIC's actions cover the 6 projects above in which the biggest losses occurred.
- ASIC's actions do not cover approximately 10 Westpoint entities or projects into which approximately 1000 investors made investments. However, it is expected that the majority of these will result in significant recoveries and returns for investors including 5 which are likely to return the full investment.
- ASIC's investigations, including into additional financial services licensees, auditors and directors & officers are continuing.