



New Office of Consumer Protection

We have a new specialist program, the Office of Consumer Protection (OCP), which deals exclusively with issues affecting consumers of financial services. The OCP will report directly to the Commission and will be guided by the independent Consumer Advisory Panel.

The key members of the OCP are Peter Kell who has worked for the Australian Consumers' Association and Delia Rickard who recently joined ASIC from the ACCC.

NSW Legal Counsel

Leading Sydney lawyer Jan Redfern has been appointed to our NSW Regional Office as Legal Counsel. Jan was an equity partner with Hunt & Hunt Solicitors. She was responsible for supervising an area in commercial litigation dealing primarily in civil remedies in the Corporations Law, trade practices, fair trading, equity and employment.

CLERP changes coming

The first bill to amend the Corporations Law as a result of the Corporate Law Economic

Reform Program (CLERP) was introduced to Parliament on 3 December 1998. The Corporate Law Economic Reform Bill 1998 was referred to the Joint Committee on Corporations and Securities for a report on the bill by 22 April. The reforms amend the Law on accounting standards, fundraising, directors duties and corporate governance, and takeovers.

The government has proposed that bill be passed through Parliament by 30 June.

Real estate schemes

We have issued a revised Interim Policy Statement 140 on real estate schemes. The information release and revised IPS 140 is available from the media release section of our home page www.asic.gov.au or through Infoline 1300 300 630.

We recently started the second stage of our review of financial advice activities of real estate agents. We will compare the regulation of the advisory activities of real estate agents which are not covered under the Law, with the way in which the Law regulates investment advisers.

We will focus on real estate advice which is largely investment related advice.

Superannuation information
We have released two superannuation information releases. The first information release explains our approach when dealing with operational requests on superannuation.

The second information release provides information on the consumer protection related functions we assumed from the ISC. It gives information about the legislative provisions, regulations, ISC instruments and ISC circulars and other policy now administered by us.

The information releases are available through the media release page on our home page www.asic.gov.au or from our Infoline on 1300 300 630.

Good Advice FAQs

Frequently asked questions on the Good Advice Regulations for investment advisers are now available on our home page www.asic.gov.au or through our Infoline on 1300 300 630.

The frequently asked questions give general guidance on what schemes are

exempt from the Good Advice Regulations, when ASIC has given no-action relief from the regulations and to what extent trustees of superannuation schemes are captured by the regulations.

Statistics

Here is a summary of our insolvency and incorporation statistics for the month ending 30 November 1998.

If you would like more information please contact our Infoline on 1300 300 630.

Insolvencies

NSW	250
VIC	151
QLD	91
SA	44
WA	47
TAS	11
NT	2
ACT	14
Total	610

New incorporations

NSW	2702
VIC	2082
QLD	1094
SA	352
WA	592
TAS	68
NT	42
ACT	101
Total	7033

Nomura manipulated market

After a lengthy, complex investigation and three weeks of court hearing, we have been successful in action against Nomura International plc.

The Federal Court held that by placing sell orders for \$A600m worth of shares in the last minutes of trading, Nomura intended to lower the price of the All Ordinaries Index and therefore the expiry price of its futures contracts.

The court found Nomura's conduct created a false or misleading appearance of active trading, and with respect to prices in the securities and futures markets.

Nomura argued its conduct was part of a legitimate index arbitrage strategy. However, Justice Sackville said that the fact a trader has an objective that can be described as economically legitimate does not necessarily mean that all strategies consistent with that objective are lawful.

ASIC Chairman Alan Cameron said this is a landmark decision, "It is already clear that it will help establish the boundaries of acceptable trading strategies not only in Australian markets, but also for players in the international securities and futures markets".

The Sydney Futures Exchange and the ASX assisted us in our investigations.

The judgment is limited to findings on whether Nomura contravened the Law.

The court has yet to determine what orders will be made. Australian law does not provide for fines or other penalties in civil cases of market manipulation. As this was a case where market participants can't claim damages, we can only seek injunctions restraining Nomura from similar conduct in the future.

The Hong Kong Securities and Futures Commission has taken action against Nomura based on the findings in the case. It has issued a severe public reprimand and suspended a Nomura employee for 12 months.

The UK Financial Services Authority is also considering action relating to licences held by Nomura. ■



NSW Regional Commissioner, Bill Coad and lawyer Mira Vucic from ASIC's Nomura team

Action against insurance broker

We've taken action against an insurance broker to protect consumers who mistakenly believed they had insurance cover.

The Federal Court made orders by consent against Royce Charlett who operated as an insurance broker. Mr Charlett arranged car and house and contents insurance policies for his clients.

We alleged that Mr Charlett was not registered under the Insurance (Agents & Brokers) Act 1984 and was receiving insurance premiums from his clients and not passing those premiums on to the insurance companies.

Justice North made orders by consent that:

- Mr Charlett be restrained from carrying on business as an insurance broker or holding out that he carries on such a business.
- Mr Charlett gives ASIC a list of the names and addresses of all clients from whom he has received money and/or instructions for arranging insurance contracts since July 1997.

- We send notices to those clients to warn them they may not be insured and that they should make inquiries find out whether they have effective insurance cover.

Acting Victorian Regional Commissioner Phil Khoury said "To maintain consumer confidence in the industry, it is vital that consumers can trust their brokers to pass on premiums to the insurance companies".

"This apparently has not happened in this case and a number of people were therefore at risk. ASIC's actions should ensure that those people can arrange appropriate cover", he said. ■

ASIC infoline 1300 300 630 ♦ ASIC homepage www.asic.gov.au

If you would like your name added to the ASIC News mailing list or you have recently changed address, please cut out or photocopy this coupon and return it to the following address:

City Mail Room
Attn: Susan O'Connor
Ground Floor, 26 Sussex Street
Sydney NSW 2000
Fax: 9299 2650

Please add my details to the mailing list

Change of address

Name _____

Name of organisation _____

Address _____

Postcode _____

Consumers

LEFT COLD AND CASHLESS

We are urging Australians who are being "cold called" by overseas promoters of supposed investment opportunities to hang up or risk losing their money.

An increasing number of people are being targeted by these overseas investment promoters who do not appear to be licensed to sell shares or other securities in Australia.

ASIC Commissioner Jillian Segal said our message to consumers is "If you are approached by a person or company you do not know, you should ask who you are speaking to, where they are from, and if they are licensed by ASIC to deal in securities in Australia".

"If they are not licensed by ASIC then don't deal with them!" said Ms Segal.

The promoters are calling people all over the country. Their tactics to get people to hand over their money include offering a 'once in a lifetime' opportunity or telling people that the offer is only available for a short time.

Some of the more active promoters are using names like Strategic Alliance Group (SAG), Pryce Western, Knowle Sachs or First Federal.

"Consumers need to remember that unlicensed promoters are breaking the Law," Ms Segal said.

"They are not advisers and they are not licensed dealers, so there is no way to ensure that they are acting in the consumer's best interests. Consumers have no protection, no guarantee on the transaction and no recourse against the promoters."

The calls are mainly coming from the Philippines, Thailand, Hong Kong, the US, the UK, the Netherlands and the British Virgin Islands.

This type of investing is very high risk, as the money is sent overseas and nothing is known about its final destination.

We are advising consumers that they can buy shares in legitimate foreign companies through licensed Australian advisers and brokers.

Our register of licensed investment advisers and dealers is available on our home page www.asic.gov.au and information about "cold calling" is available from our Infoline on 1300 300 630. ■

MOVES AT THE TOP

The former Director-General of the NSW Department of Training and Education Co-ordination and Managing Director of TAFE NSW, Jane Diplock, was appointed as our new NSW Regional Commissioner.



Jane Diplock

Ms Diplock will manage the Sydney office of ASIC, which is the largest operational office of ASIC and undertakes a diverse range of regulatory and law enforcement activities. Ms Diplock comes from a strong background in administration in both the public and private sectors, and brings exceptional management and technical skills to her new role.

Sue Carter, the former Chief Financial Officer of ANZ Funds Management in Melbourne has been

appointed as the new Victorian Regional Commissioner.

Ms Carter's experience in insurance and superannuation will be invaluable as we continue to integrate our new consumer protection responsibilities. Ms Carter is looking forward to commencing her appointment next month.

Sadly we farewell our Deputy Chairman, Peter Day, this month. We would like to wish him well in his new position with Bonlac Foods Ltd. Peter Day has made a number of significant contributions during his appointment with ASIC, including the formation of the Office of the Chief Accountant and notable changes to the Commission's management structures. ■



Sue Carter

CAP's education stocktake

Our Consumer Advisory Panel's (CAP) first project is set to plug the information gaps in consumer education for financial products and help people stop kissing their hard earned money goodbye.

The project is a stocktake of financial consumer education material. The research will identify what consumer education resources are available in the areas of investment, superannuation and banking so that any shortfalls can be identified and filled.

The research will be carried out by the Financial Services Consumer Policy Centre.

At least 100,000 Australians lost their life savings in the past 10 year through questionable investments. CAP hopes that by doing this research this figure can be significantly reduced.

The Financial Services Consumer Policy Centre director Chris Connolly said one area the research will cover is advancements in technology in financial services.

Mr Connolly said that there has been a boom of the use of new technology by superannuation funds, insurance companies and banks, including the introduction of telephone banking. The research will look at whether consumer education has caught up with these new products.

CAP expects to release the results of its research in the first half of this year.

While the research will be looking at the broad availability of consumer education material, the research group is also interested in hearing from consumers. If you'd like to comment about your experiences with consumer education, you can email the centre on director@fscpc.org.au. ■

In a statement today...

God Coast resident Hiromi (Henry) Kawada appeared in court to answer 42 charges relating to his management of the affairs of Japanese rock star Eikichi Yazawa and two companies of which Mr Yazawa was a principal shareholder, Comestock Corporation (Australia) Pty Ltd and Jillbridge Pty Ltd. As well as dishonesty charges under the Corporations Law, Mr Kawada is charged with misappropriating over \$374,000, misappropriating a Gold Coast residential property, obtaining a bank guarantee of \$6m by false pretences and forgery. These charges are in addition to 18 charges brought against Mr Kawada in August 1998.

Pop star's agent on \$6m fraud charges

By PHEL BARTSCH
Gold Coast bureau

46 million from Nats Australia Bank Ltd.
Misappropriated a residential property belonging to Yazawa at The Pines, Gold Coast.

We issued a class order which allows companies, registered schemes and disclosing entities greater flexibility in the presentation of their annual reports and half-year reports, while maintaining the integrity of the reporting process. Class order 98/2395 allows entities reporting under Ch 2M of the Corporations Law to transfer information presently required to be included in the directors' report to a document attached to the directors' report.

We reached a settlement under which the company and creditors of Sumac Alpaca Altiplano Australia Pty Ltd would receive \$50,000 cash and an interest in Aplacas with a potential value of \$750,000. We alleged that Sumac Australia raised approximately US\$2.2m from Australian investors to buy alpacas from Peru. We also alleged that to date no alpacas have been supplied to the investors and that the majority of the funds raised had been spent. The two principal directors of Sumac Australia, Anna and David Bussenschutt, are both banned from managing a company for five years.

The companies involved in a takeover dispute relating to the Queensland property developer Berela Ltd have given ASIC an enforceable undertaking. Citie Centre agreed to make a new takeover announcement to acquire all issued shares in Berela Ltd at 23c, 1c higher than its previous offer of 22c. One shareholder Mirani Pty Ltd, which has about 17% of Berela, has undertaken to dispose of its shares and not exercise the voting rights attached to them.

We obtained orders in the Federal Court for Buckingham International Pty Ltd to pay more than \$1.3m to investors. We alleged that Buckingham promoted a scheme in which investors pooled funds in Australia for investment overseas in "high yield trading programs". The company was not licensed to advise or deal in the securities in question.

COBAR MINERS TO BE PAID

The joint liquidators of Cobar Mines Pty Ltd and the mine's parent company Ashanti have reached landmark settlement under which Cobar employees will be paid almost all of their entitlements.

Under the settlement, 250 employees owed \$10.8m in wages and superannuation entitlements stand to receive 85c in the dollar.

The settlement was brokered by ASIC. It followed our investigation into the collapse of the Cobar Mines, and a letter of financial support given by Ashanti to Cobar Mines and the withdrawal of that support.

The settlement reflects the law which generally holds parent companies responsible for the insolvent trading of their subsidiaries where the parent company ought reasonably have known that the subsidiary was incurring debts it was unable to pay.

The settlement will also see unsecured creditors receiving approximately 29c in the dollar.

We considered taking legal action against Ashanti on behalf of the employees and creditors, but this settlement made that unnecessary.

ASIC Chairman Alan Cameron said "Legal action would have resulted in long delays and uncertainties when the Cobar community needed an immediate outcome to sustain it. We believe the settlement is a very good commercial outcome".

The main reason for the closure of the mine was the downturn in world copper prices at that time. ■