23. Financial Institution Failures: An Australian Perspective

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23.1 Introduction

Failures of financial institutions are a natural consequence of a competitive financial market where inefficient firms are unable to compete profitably, or where risk management practices prove inadequate to provide financial resilience in the face of unexpected shocks. And there is always the possibility of rogue operators aiming to redistribute wealth from customers to themselves before disappearing the scene. Ponzi schemes[1] are the most obvious example of that.

Financial institution failures impose unexpected losses on stakeholders. These include: providers of finance (equity or debt or deposits); customers who have engaged the entity to manage their wealth; customers owed, or relying on, provision of financial services (insurance and advice)[2]; borrowers relying on credit facilities and expectations of loan availability for their business continuity, business counterparties with claims outstanding; and employees.

While some failing financial institutions depart the scene relatively smoothly (such as via a takeover, or early wind-up) it is rare that stakeholders are not subject to unexpected losses. Governments worry about such outcomes – particularly where customers are believed to have been unlikely to be able to assess the likelihood of such an event, and where losses are significant.[3] But also of concern is the

[1] Ponzi schemes involve a fund manager using funds provided by later investors to provide high returns to early investors, even though there may be no profitable investments made by the manager – and more likely a siphoning off of funds for personal use. As long as cash inflows from new investors exceed cash withdrawals of existing investors, the fraud may go unrealized for some significant time.

[2] Insurance failures can mean that individuals or businesses who are not customers can be adversely affected if the insurance provides for the policy-holder to be protected against claims by third parties (such as for motor accidents, workers compensation etc).

[3] Governments may also provide compensation schemes for employees who are owed money by the company for unpaid wages, leave entitlements, such as with the Australian Fair Entitlements Guarantee (FEG) Scheme.

possibility that an institution's failure could lead to financial instability, either due to spillovers from linkages with others in the financial sector or via adverse effects on confidence.

Licensing (including entry, operating, and reporting) requirements aim to ensure that only reputable, well managed, entities operate in the financial system. Various regulatory requirements and exposure of managers and directors to prosecution from operating while insolvent aim to ensure the closure and exit of failing institutions before major losses occur.[4] In some cases, prudential regulation is applied to provide a "safety net" protecting consumers of those institutions. The safety net includes specific regulatory requirements, supervisory oversight, and customer compensation arrangements if failure occurs.

But failures do occur, and the business of winding-up a failed financial institution is generally quite complex. Assets, such as loans, may be illiquid and hard to value and maximising the recovery value may require specialised skills. Creditor priorities can complicate matters and law suits are commonplace. Insolvency processes can take many years, such that even if there are sufficient assets to meet the claims of some stakeholders, there can be inordinate delays in those funds being received. For prudentially regulated financial institutions, special resolution arrangements generally apply to limit the harm to depositors or policy holders and to reduce financial sector disruption.

23.2 Australian Financial Institution Failures

Any attempt to study financial firm (and product) failures faces the difficulties of firstly defining what is meant by failure, and secondly delineating the boundaries of the financial sector. For current purposes, failure is used to refer to circumstances where significant losses, beyond what might reasonably have been expected possible, based on information provided, are incurred by investors and customers. By focusing on the financial sector, losses to investors in shares or bonds issued by non-financial operating companies are clearly not to be included (although issues of appropriate disclosure and investor protection are relevant). But there are, for example, numerous entities which engage in "business" operating activities, but which are structured as managed investment schemes (MIS). Agribusiness schemes, infrastructure funds and real estate investment trusts, fall into this category. "Failures" of such schemes (involving major declines in, or wiping-out of investor stakes) have often been inextricably intertwined with failures (insolvencies) and losses to stakeholders of companies which are the external managers of the schemes.

[4] In March 2020 as a response to the economic disruption during the COVID pandemic, the government introduced a temporary "safe harbour" defence for directors from liability for insolvent trading.

Similarly, there is an increasingly large array of complex financial products which are marketed to investors, both as listed and unlisted products. These include structured products (such as credit linked notes) issued by special purpose vehicles, as well as a range of derivative products, such as warrants, offered by financial institutions. Investors may be exposed to unexpected losses due to not being aware of the risks inherent in such products.

Australia has had a number of significant financial institution failures in recent history. At the start of the 1990s, following (and in part attributable to) the deregulation of the 1980s, two large state-government owned banks and some non-bank intermediaries failed.[5] Depositors in those banks did not suffer losses, due to state government guarantees, but some depositors with non-banks did.

The failure of the State Bank of Victoria reflected poor governance over commercial lending activities of its subsidiary Tricontinental as outlined in the resulting Royal Commission. Similarly the collapse of the State Bank of South Australia also reflected inadequate governance over commercial lending activities, outlined in an Auditor-General's Report and a Royal Commission, and also analysed from a political science perspective in this article by Greg McCarthy. The problems of the Trustee banks in Tasmania in the late 1980s, and eventual privatisation and sale to Colonial Ltd in 2000 are described here.

In March 2001, a large insurer HIH failed and the Federal Government instituted a policy holder compensation scheme ultimately costing the government (ie taxpayers) over $720 million.[6]

23.3 Failures of Prudentially Regulated Institutions

Australia has had very limited instances of failures of prudentially regulated institutions since the start of the millenium. The one major exception was the failure of HIH Insurance company in 2001. There have been some losses due to fraud for APRA regulated superannuation funds (such as in the case of the Trio failure in 2009). During the GFC, BankWest was acquired by the Commonwealth Bank, arguably averting a potential bank failure.

The HIH Failure

When the HIH insurance company collapsed in March 2001, it was seen as likely to be one of the largest corporate failures in Australian history with an expected deficiency of funds in the order of $3.6 to $5.3 billion (HIH Royal Commission). The failure was a systemic event, in that HIH had a large

[5] These and other prior financial institution failures are discussed in the 2004 Study of Financial System Guarantees and a 2001 RBA Research Discussion Paper.

[6] An article in the 2015 Treasury Economic Roundup provides a good overview of the HIH collapse and its aftermath.

market position in several types of liability insurance – such that many businesses were either forced to suspend operations or continue without the protection of such insurance. It also left many policy holders without insurance, while claimants on existing policies faced the risk of non-payment.

The HIH failure reflected partly the effects of excessive competition in underwriting in attempts to gain market share. HIH (and other insurers) had for some time made underwriting losses (claims exceeding premiums) with viability relying on their investment earnings (based on investing funds available because of the lags between premium receipt and claims payouts).

The government implementation of a policy holder compensation scheme (operated by the private sector) ultimately costing the government (ie taxpayers) over $720 million, led to a Study of Financial System Guarantees as a prelude to the eventual introduction of the FCS.

23.4 Shadow Banking Failures

Shadow banking is generally defined as comprising those institutions outside of the prudentially regulated banking sector which engage in credit intermediation – raising funds which are used to create or invest in loans/securities which involve a credit risk exposure. There are two general types of entities involved. One type raises funds from investors in the form of debt – this includes institutions such as Finance Companies, Securitisation vehicles, Special Investment Vehicles such as those issuing Asset Backed Commercial Paper. Such institutions may fail due to credit risk taken on, but may also fail because of liquidity, interest rate, operational, or other risks – similar to banks. However, SIVs which are constructed to issue collateralised debt obligations (CDOs) cannot, unless other borrowings or fraud are involved, become insolvent – since changes in the value of the underlying assets are passed on to the investors in those products. "Failure" involves the loss of capital value of the investors in the CDOs

The Australian CDO market grew rapidly between 2001 and 2007 from less than $0.5 billion outstanding to nearly $15 billion outstanding, with most of the growth being in synthetic CDOs. "the available evidence for Australia suggests a larger non-institutional investor presence than is the case in other markets, with Australian CDOs having a higher share of retail and middle-market investors than offshore CDOs. Middle-market investors include local governments, university and charity endowment funds, high net worth individuals and smaller boutique fund managers." (RBA, 2007). There were 12 listed CDOs in mid 2007.

Also within this category are specialised margin lenders, who may obtain loans from institutiona lenders (such as banks) to finance their provision of margin loans to clients. The failures of Opes Prime, Lift Capital, and PrimeBroker at the time of the GFC paradoxically imposed losses on their borrowing

clients. The reason was use of a "non-traditional" form of margin lending (now disallowed) in which borrowers provided collateral in excess of the amount borrowed via a securities loan. Because ownership of the collateral had changed hands, borrowers were unable to reclaim it.

The second class of entities classified as shadow banking under this definition are managed funds which invest in credit products. Mortgage trusts are one example, and "high yield" income funds are another – with the expectation of "high yield" arising from investing in debt securities issued by lower rated borrowers or by the fund creating a synthetic credit exposure by writing credit protection insurance in return for a fee to supplement income from holdings of other securities. Returns to investors are uncertain, and failure may arise from liquidity problems – often linked to declines in the values of the underlying assets. Inappropriate marketing by some such entities can mislead investors into believing that high returns can be achieved without significant risk, and ASIC aims to ensure that this does not occur.

Investment Vehicles and their Managers

Other forms of investment vehicles can expose investors to unexpected losses. In Australia, significant losses were experienced around the time of the GFC by investors in managed investment schemes involving agri-business, infrastructure assets, and property. In some cases this reflected underlying deficiencies in the business plans of the operations being financed by investor funds. In other cases it reflected liquidity problems – where assets were long term and illiquid and yet investors were able to request redemption of funds at any time. Large scale redemption requests at the time of the GFC led to unlisted property and mortgage funds being frozen to avoid fire sales of assets. In many cases investors were faced with a wait of years to redeem whatever was left of their investments.

More recent cases include:

Blue Sky Alternative Investments

Blue Sky Alternative Investments (BLA) was an ASX listed investment firm, created in 2006, listed 2012 and delisted Nov 2019 (following appointment of receivers in May). Its growth and demise are outlined here. It had over $3 bill AUM (assets under management) at its peak, including listed funds (Blue Sky Alternatives Access Fund (BAF)) and unlisted investments. (It managed more than 80 funds). It was appointed to manage the SA Venture Capital Fund in 2017. A report by hedge fund (and short seller) Glaucus in April 2018 argued that the valuation of AUM ($3.9bill) was inflated (Glaucus estimated $1.5bill), implying an inflated value for projected fees for asset management, and claims that investors were being overcharged for management fees. A number of court cases have occurred against financial advisers who recommended various of the funds to clients). The listed fund (BAF) arranged to change its manager from BLA to WAM in 2020.

Issues associated with Blue Sky's corporate governance (including lack of independent directors) are discussed here.

LM Investment Management was a funds management company offering a range of various funds to investors. It was the Responsible Entity for 7 registered MIS and marketed its funds both within Australia and to Asian investors. The LM First Mortgage Income Fund raised $400 million from investors before failing, and law suits were filed against EY in their role as auditors. Overall 12,000 investors lost most of the $800 million invested in the various funds. LM failed in 2013 when voluntary administrators were appointed and court appointed trustees were appointed to the LM Managed Performance Fund. That fund had made loans to a related party (the founder Peter Drake) for property development. The trustees reported a possible loss to investors of 95 per cent of funds invested. ASIC subsequently took action against Mr Drake, but was unsuccessful.

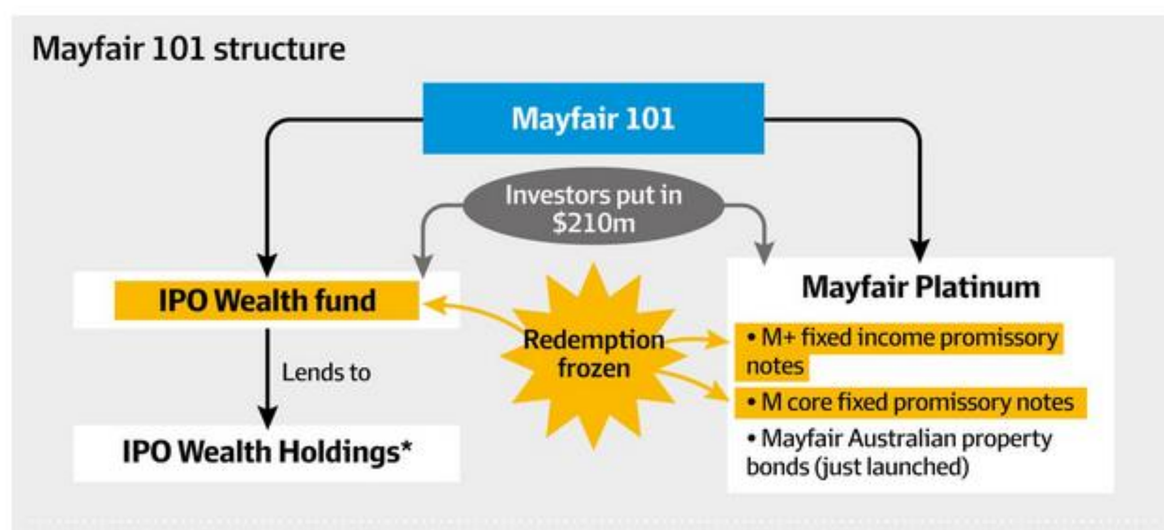
Prime Trust was an ASX listed trust whose RE was Australian Property Custodian Holdings Ltd (APCHL). It collapsed in 2010 with around 8,000 investors losing around $550 million. The trust owned retirement villages. It was created in 2001 and listed in 2007. The process involved in listing involved changing the trust's constitution to enable payments from the trust to APCHL (including a listing fee of $33 million, and several "poison pills" in the form of removal fee if APCHL was removed as RE and a takeover fee if a takeover occurred. While the RE had rights to alter the constitution (provided member's interests were not harmed), court action was taken against the directors of APCHL since the latter condition was not met. Behind the trust's collapse this article argues were fees (in the order of $150 million) extracted from the trust, and sale of the trust's management rights to Babcock and Brown

Mayfair 101 [7] was a family owned "investment conglomerate" offering a range of investment products, and on 11 March 2020 it suspended all redemptions at the end of their fixed term. It had around $5 billion of investments, with funds raised from "sophisticated investors". The Mayfair 101 structure is shown in the figure from the AFR. Mayfair Platinum has the features of a finance company offering promissory notes. ASIC has taken action following suspension of redemptions. The IPO Wealth fund which on lends to IPO Wealth Holdings is a MIS.

On 22 June 2020 IPO Wealth Holdings Pty Ltd was placed into voluntary administration, following the decision of IPO Wealth Fund's trustee (Vasco Trustees Limited) to appoint receivers. IPO Wealth is a

[7] This section has been amended (August 2024) following correspondence from Mr James Mawhinney (the principal of Mayfair) in which he took issue with some specific statements and referred to the outcome of court proceedings which were subsequent to the section being written. The ongoing court cases illustrate the difficulties ASIC can have in enforcing financial legislation and regulation.

managed fund which invested in securities, and had around $82 million invested by 181 unit holders. There was also $130 million frozen (or repayment suspended) in other Mayfair 101 products. The principal is in an ongoing battle with ASIC over prohibition from dealing in financial products for 20 years, with a Full Federal Court case scheduled for late 2024. This followed his appeal against large penalties imposed by ASIC which reflect ASIC's view that there had been misleading and deceptive advertising and conduct. In April 2024, he was arrested and charged with engaging in dishonest conduct while carrying on a financial services business, and the outcome of that is yet to be determined.



Union Standard International Group (USG), an Australian based subsidiary of an offshore group, ran a trading website, through which high risk financial products were sold to customers, and raised funds from investors via an investment trust fund which some have suggested had characteristics of a Ponzi scheme. The trading website enabled customers to take highly leveraged bets on financial asset prices via products such as contracts for difference. In June 2020, USG appointed administrators when the Australian directors were unable to obtain access to funds controlled by the offshore parent to meet withdrawal requests.

USG paid high commissions to brokers for introduction of clients, and mounting losses may have been hidden in the financial statements in years prior to the failure. The investment trust product (known as "U-Plus"), promising high returns from trading activities by the company, was sold (apparently without proper authority) to overseas investors but marketed as an offering by the Australian subsidiary. ASIC commenced investigation in 2019.

Sterling Group and Sterling Investment Trust (SIT).

A Senate Economics Committee Report provides detailed information on the failure of this group which expanded from managing rental properties to managing a retail MIS to fund the rental management activities. Investors (such as retirees) in one scheme received as a benefit a long term ("lease for life") residential lease agreement, to be funded by the earnings on their funds invested in the scheme. The failure of the business in 2018 due to poor management, uncommercial pricing such that investment income did not meet rental costs, and use of capital raisings to meet operating costs, meant that these "tenant-investors" lost access to their housing. Overall, 566 investors in the Sterling Group schemes lost most of the funds (on average around a hundred thousand dollars) they had invested, around $60 million in total.

Mortgage and Property Fund Redemption Freezes

Prompted by the decline in asset value and attempts by investors to withdraw funds, a large number of unlisted managed investment schemes (mortgage, property, enhanced income, hedge funds) froze redemptions, following the onset of the GFC. Responsible Entities of such schemes were required under the Corporations Law (2001) to only permit withdrawals if "liquid assets" (saleable at market value) are at least 80 per cent of investor funds.[8] However, ASIC can grant relief enabling some withdrawals from frozen funds and this ASIC Information Sheet (249) provides details. ASIC's Information Sheet 142 provides information on numbers of, and amounts in, frozen funds from 2009 (87 funds, $25.36 billion) up to 2015 (47 funds, $1.10 billion). Most major financial institutions have some involvement either as REs or in "badging" of such funds. Figure X shows the consequences for unlisted property and mortgage trusts, where the declines reflect the gradual "unfreezing" and withdrawal of investor funds and the lack of new investments. The experience of the post GFC unlisted trust sector is a close replica of the experience of the early 1990s when property trusts experienced massive declines in asset value and freezing of redemption – and which prompted replacement of trustee-manager structures with the RE model in the Managed Investments Act of 1998.

[8] Some had apparently "broken the buck", involving a situation where the constitution required repayment of units at the original purchase price, but where the net asset value had fallen below that figure. (ASIC, 2011)

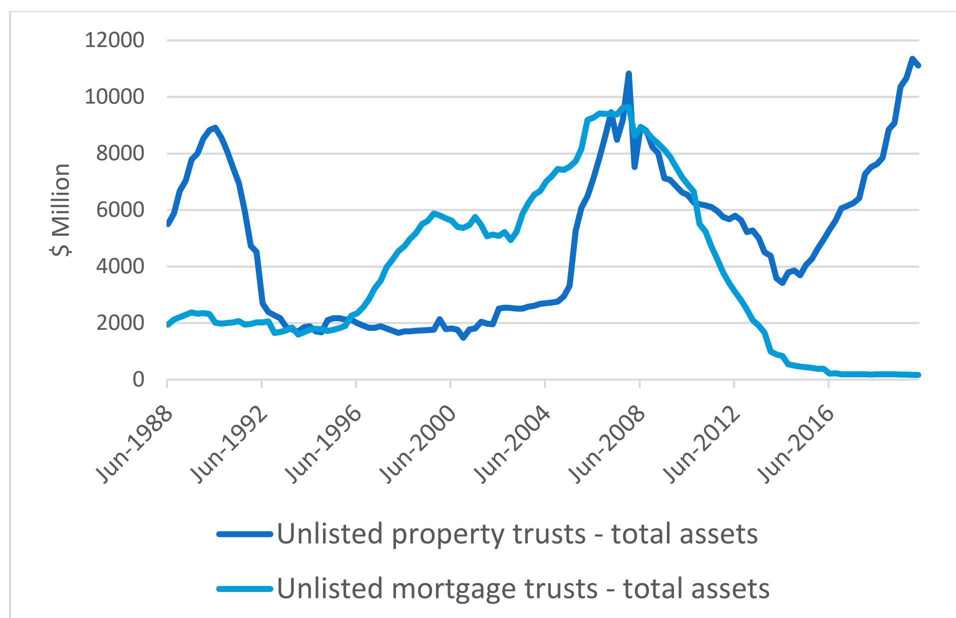


FIGURE 1: UNLISTED TRUSTS TOTAL ASSETS (SOURCE: ABS CAT NO 5655.0, TABLE 5)

There are a number of problems associated with resolving managed investment schemes which are subject to financial difficulty. This could arise either because the RE is in financial difficulty, for example if its other business activities have been undertaken under a leveraged structure and it faces insolvency. Alternatively the MIS itself may have incurred debt (arranged by the RE). A CAMAC Report in 2012 investigated these matters.

Even in the case of a viable MIS, there are "difficulties with the existing provisions in relation to the transfer of a clearly viable passive collective investment trust from its incapacitated responsible entity" (ASIC submission to CAMAC). These include:

- *Meeting procedures for removal of incapacitated entity*
- *Accessibility of documents*
- *Complexity of related party arrangements*
- *Poison pills*:
- *Attracting a temporary responsible entity or replacement entity*

Members of MIS have no 'day to day' control over MIS but have the right to vote to change RE. However, there are problems in arranging general meetings and voting requirements. These include

> "a. The difficulties members face in replacing an underperforming RE of an unlisted MIS including the high threshold for removal and replacement, practical issues relating to member engagement and entrenching provisions;

b. Unresolved issues relating to the procedure of member meetings to consider resolutions for the removal and replacement of a responsible entity;
c. Mismanagement and/or misconduct by the RE, in particular relating to:
i. Conflicts of interest between the interests of schemes for a multi-function RE and between the REs interests and a particular MISs; and
ii. Related party transactions; and
d. Inadequacy of professional indemnity insurance cover." Clarendon Lawyers (Submission to CAMAC)

Among the cases where problems for funds arising from problems with the RE have occurred are:

Opus Capital and Income Fund v Centuria (ASIC cancellation of Opus AFSL, for breach of NTA licence condition)
Wellington Capital as RE for the Premium Income Fund previously managed by Octaviar
Funds operated by RE's within Allco Group and B&B
Trio Capital which managed 10 MIS.
Agribusiness insolvent REs such as Timbercorp, Great Southern,
Century Funds Management (Centuria) and 360 Capital taking over management rights of property trusts from a financially distressed Becton funds management organisation in 2011
LM Investment Management Limited which went into voluntary liquidation in 2013, and was the RE of a number of MIS/managed funds.
The Prime Trust, which was a property trust investing in retirement villages, whose RE APCH Ltd was placed into liquidation in 2012. 9,000 investors lost $550 million and according to a report in The Guardian had not recovered any funds as at 2020.

Finance Companies

For current purpose, the term "finance company" is used to describe any entity which raises funds from the public by issue of debentures, mortgage debentures, or unsecured notes to make loans (including leasing) or property development activities. Some such entities are subsidiaries of major operating companies (raising funds for use by the parent), and those are not considered here. The term "debenture" is only permitted by law to be used if the borrowing is secured by a claim over tangible property – although that also includes receivables such as loans to other parties. In 2005 in Report 38, ASIC indicated potential problems with this definition. That report also noted that in 2004, prospectuses were lodged to raise $3 billion of which $930 mill was for on lending, $1.24 bill for own funding, $513 million was by subsidiaries of major companies and $309 million for CDOs.

In 2012 ASIC Regulatory Guide 69 outlined disclosure requirements for debenture issuers involving "if not why not" explanations if a number of benchmark "good practice" expectations for issuer characteristics were not met. These benchmarks included: equity ratio, liquidity, rollovers, debt maturity, loan portfolio, related party transactions, valuations, lending principles. For example, for issuers with significant property exposures a minimum equity/assets ratio of 20 percent is indicated, while for others a minimum of 8 percent is specified.

Subsequently in 2014 APRA, via imposing conditions for exemption from section B of the Banking Act (allowing Registered Financial Corporations to undertake "banking business" without a banking

licence), limited the terms on which debentures could be issued to retail investors. The conditions include: not allowed to use words "deposits", "at-call", bank; no issuing of retail debentures with under 31 days maturity; no provision of transaction facilities (access to ATMs, EFTPOS).

Failures of Finance Companies have been a relatively frequent occurrence over many years. While generally of relatively small size, their use of debenture fund raising from retail investors, often in a specific local area where they have been seen to be akin to a local bank, has made their failures newsworthy, In its Report 173, ASIC listed 14 debenture issuers that had entered administration between March 2008 and September 2009. The largest of those had debentures of $178 million on issue, but 8 had amounts on issue of below $40 million. Before that time, Westpoint went into administration in 2005 with $400 million owing, generally in the form of promissory notes – which, by not being classed as debentures, enabled it to avoid prospectus requirements.

Common causes of finance company failure include: bad loans (credit risk); maturity mismatch between assets and liabilities (liquidity risk); inappropriate loans to related parties and fraud (operational risk); poor property and other investments (market risk). But for many, inability of small scale financiers to compete profitably in loan and “deposit” markets with large banks is a reason for exit via closure or takeover.

In more recent years, failures (some of which had operated for many years in regional communities) have included[9]:

Banksia (2012), 15,622 investors owed $663 million. A prior takeover of a troubled competitor in 2009 without adequate due diligence apparently contributed to failure, accompanied by inadequate accounting for loan losses. Debenture holders will likely eventually receive around 90 cents per dollar owed, although a dispute over fees charged by a litigation funder for a class action by some claimants was still active in 2019.

Wickham Securities (2012), 300 investors owed $27 million. Causes of failure identified included fraud. Following a class action against the trustees for debenture holders (Sandhurst Trustees), an out of court settlement for around $10 million was reached in 2018.

Gippsland Secured Investments (2013), 3,500 investors owed $143 million. Causes of failure identified included loan losses. Investors expected to receive over 90 cents per dollar owed. Reports were made of loans to related parties (directors) on concessional terms. The directors have claimed in a

[9] Information on such failures can be obtained from ASIC’s key matters website and from the relevant insolvency firms (although access to such information is often restricted to stakeholders).

submission to a PJCCFS Inquiry that the actions of the Trustee in appointing receivers (following low asset valuations by their appointed valuer) was inappropriate.

Provident Capital (2012), 3000 investors owed $130 million. Causes of failure identified as losses on loans and advances due to poor loan oversight, debenture and note holders ultimately received in the vicinity of 20 cents per dollar owed.

Southern Finance (2012) 5,500 investors owed $290 million, funds frozen due to investor withdrawal demands following Banksia failure. Taken over in 2013 by Bendigo& Adelaide Bank).

Mayfair Platinum/Mayfair 101 (2020) issued secured and unsecured debentures to wholesale investors. Suspended payment in March 2020 due to liquidity issues. Under ASIC investigation.

Stockbrokers/Dealers

Stockbroking firms (referred to in legislation as "dealers" and which could be thought of as investment banks) provide a range of investment and advice services for investors, as well as companies seeking to raise funds. The stockbroking/dealing activities will often be one part of a larger financial services firm.

Failure of a dealer could cause losses for customers in several ways. One type of loss which should not occur is loss of ownership of shares or other ASX traded securities purchased through the dealer's trading facilities. Those shares will be registered in the investor's name in the Chess registry, although held electronically in the dealer's account with a custodian. But losses could occur if "client money" held by the dealer (to facilitate transactions, meet margin calls, etc) has not been appropriately protected by being segregated from the dealer's own funds by way of being placed in a trust account, and not accessed for reasons other than approved transactions for the client. Another source of loss could be if transactions in progress when the failure occurs are not successfully completed.

The National Guarantee Fund, of which SEGC (an ASX subsidiary) is the trustee, is a compensation fund (of at least $100 million) for meeting investor claims arising from dealing with ASX market participants (typically referred to as stockbrokers or dealers). (The fund was originally established by contributions from ASX participants, and should the balance in the fund fall below the minimum specified amount, levies on participants and/or the ASX would be used). Allowable claims include cases where the dealer has not properly executed a transaction, but also where a dealer becomes insolvent and defaults on repayment of property entrusted to it by a customer (other than by way of a loan). In the case of insolvency, claims could be paid (up to a maximum of, in 2019, $15 million) if there is a shortfall of funds in the trust account of the dealer or a shortfall in securities in the custodian holdings of the Dealer. There is also a limit per claimant (following regulations made in late 2019).

The only recent (post-GFC) failure of a dealer was the insolvency of BBY Group (a financial services and stockbroking firm) in 2015 (described in Quilter, 2015), and whose AFSL was suspended by ASIC. The causes of failures included losses on underwriting a securities issue, and trading losses. Operational failures meant that there was a shortfall (of $21 million) in what were meant to be client money (segregated) accounts, due to use of funds provided by clients for inappropriate purposes. The insolvency process was still proceeding in mid 2020, with customer still unsure of their likely returns.

23.5 The GFC and Financial Failures in Australia

Around the time of the Global Financial Crisis, there were a large number of financial firm failures, although none within the prudentially regulated sector. Table 1 provides details.

A number of these failures involved listed companies (eg Centro, Allco, MFS, City Pacific) which had opaque, complex, corporate structures intertwined with roles as managers of investment vehicles. Their activities included purchasing illiquid assets, some of which were held on-balance sheet, but primarily on-sold into investment vehicles raising funds from retail and other investors. Profits came from both a spread between the price originally paid for the assets versus the sale price to the investment vehicle, and fees for managing the investment vehicle. Difficulties rolling over short term borrowings given highly leveraged positions and declining asset values, and complex interconnections between the companies and managed funds contributed to their demise.

In some cases, underlying business activities of the investment vehicles were inherently inadequate to provide returns which investors had been led to expect. The Agribusiness Managed Investment Scheme (MIS) sector, stimulated by generous tax concessions, was the prime example. At July 2008, there were 371 licensed agribusiness schemes and around $8 billion had been raised from 75,000 investors since Managed Investment Act 1998. In many cases, investors in the MIS had borrowed heavily to buy units (sometimes from financier subsidiaries of the scheme operators) and remained liable for those debts even when the schemes failed. With regard to Great Southern (see Brown et al, 2010) the ABC reported in 2013 that it had led to "Australia's largest ever class action, more than 20,000 investors are seeking to recover their money following the $2 billion collapse of the company's managed investment schemes in 2009."

(These failures prompted parliamentary inquiries into the sector, but despite several recommendations, little has been done to rectify obvious problems as analysis of a subsequent (2018) failure of Quintis illustrates).

Another source of problems arose from margin lending activities using a securities loan model in which ownership of the underlying securities was transferred to the lender, who in turn was funded using a

similar model by a major bank. Various stockbroking/securities firms (Opes Prime, Tricom, Lift Capital, Chimaera) failed when declines in the value of collateral provided to their lenders (and other operational failings) saw funding withdrawn, and their subsequent inability to return that same collateral to their margin loan borrowers.

While each case of failure had its own idiosyncratic issues, they illustrate the general problem of risk exposure arising from using high leverage to finance risky asset holdings. The consequences were amplified by complex, opaque, interdependent, structures, when asset values fell and market liquidity collapsed.

TABLE 1: FINANCIAL FIRM FAILURES IN THE GFC PERIOD: AUSTRALIA

Date	Headline Event	Further Information
July 16, 2007	Basis Capital announces suspension of withdrawals from two hedge funds due to inability to calculate NAV (previously reported at over $1 bill).	Planned liquidation of "master fund" in which its retail funds have invested announced on Aug 31. NAV reported to have declined by as much as 80 per cent. Basis Yield Alpha Fund bought "Timberwolf" synthetic CDO securities from Goldman Sachs in June 2007. Pursuing claim against Goldmans (2011). BT and St George had been offering margin loans to 80% of investment value. Retail investors had accessed the funds through bank based investment platforms. Had received an S&P 5-star rating
July 25, 2007	Absolute Capital announces suspension of withdrawals from two "Yield" Funds (investing in corporate loans and CDOs).	Appointment of a voluntary administrator on Nov 27 under Australian insolvency regime arrangements. Announcement of winding up with likely return of A$0.10 in the dollar
Aug 14, 2007	RAMS Home Loans, a securitiser, announces exposure to rollover risk in US XCP market. unable to roll-over short term funding of almost half of $14.6 billion portfolio.	The RAMS IPO was July 27, 2007 at $2.50. Sale of origination business to Westpac announced on Oct 2. Shareholders lost most of investment.
Dec 17, 2007	Centro Property announces difficulties in rolling over debt and suspends redemptions from two managed funds. Share price drops from $6.20 to $1.36	Jan 15, announces possible default event, forex risks, prior under-reporting of current liabilities, share price drops from $1.50 - $0.60. Feb 18, announces extension of refinancing facilities
Jan 18, 2008	MFS was RE for managed funds and investor in hotels etc. Shares suspended due to financing problems. Suspension of redemptions from managed fund in Jan 2008. Name change to Octaviar, eventually delisted in August 2009. It was reported as having $5.4 billion of assets under management in 2007. MFS announces proposed separation of businesses and "recapitalization" share issue to pay off short term loans. Shares drop 75% to $0.99 as it attempts to raise $550m.	Shares suspended. Short term debt financing problems announced on Jan 23. Redemptions from its managed fund suspended on Jan 30. Sale of 65% of its stake in Stella Group announced on Feb 4. MFS Premium Income Fund froze $770 mill of 10,000 investors (most lost?) Funds invested in related entities, and assets bought and sold at inflated prices into managed funds?
Jan 23, 2008	Allco Finance Group announcement of sales of stock borrowed from principals of Allco Finance Group due to failure to meet margin call.	Listed company involved in leasing and funds management. Debt financing problems and short selling reflecting margin loan difficulties of principals. Subsequent restructuring of debt arrangements with banks and selling off assets to reduce debt levels. Share price falls to below $1 from $9 in mid 2007
Feb 1, 2008	Tricom Securities fails to settle share trades causing market disruption	Tricom had on-lent borrowed stock and was unable to provide the stock to settle. Margin book subsequently reduced from $2.4 bill to $200 mill.
Feb 26, 2008	ABC directors announce the use of margin loans over their shares in the company.	Share price collapses, company forced to sell 60 % of its US business

Mar 28, 2008	Opes Prime stockbroking placed in administration with margin lending book of over $1 bill.	Margin calls had not been made to selected customers. Creditor banks seizure (and sale) of stock involved in loans to directors of small listed companies led to stock market trading halts and substantial ownership changes. Chapter 4 of this PJCCFS Inquiry provides details
Mar 4, 2008	Property developer City Pacific requests trading halt. Funds Management and Property developer. It was the RE for five mortgage and income funds and four property funds (including two listed on ASX). It listed on the ASX in 2001.	Shares plunge 58% on fears that $500m of short-term debt to the Commonwealth Bank will struggle to be repaid. In August 2009 receivers were appointed following a loss of its RE role over a fund whose management fees provided a major income source.
Apr 11, 2008	Stockbroker Lift Capital is placed in administration	Followed a similar business model to Opes Prime. Margin loans made to customers ($700 mill owed by Lift to Merrill Lynch approx.) and ownership of their securities transferred to third party lenders to Lift. Dec 2009 creditors accepted scheme of arrangement enabling 65% recovery ($35 mill?) from Merrill Lynch (lender to Lift). Lift clients with loans still liable for payment?
Apr 16, 2008	A receiver appointed by ANZ Bank to Primebroker Securities Limited, an associated company of Chimaera Capital.	Primebroker was engaged in non-standard margin lending (using a securities lending model) partly financed by ANZ Bank.
Oct-Dec 2008	Property and mortgage trust freezes	In 2008, over 50 mortgage and property funds froze redemptions affecting over $30 billion of investments
October 2008	Lehman Bros	Lehman (Australia) took over Grange Securities which had sold CDOs to Australian investors such as councils. Pursuit of settlement in court. (Also Oakvale Capital). "Cole" Report on NSW Local Government Investments (April 2008) This article provides information.
January 2009	Storm Financial (14,000 clients (3,000 leveraged investment clients)	Financial advisory firm which encouraged investors to borrow against existing property (from lenders such as CBA, BoQ, ANZ) and also use margin loans (from Colonial and Macquarie) to leverage investments in index-linked managed funds (badged by Storm and operated by Colonial First State and Challenger). Up front fees of 7 per cent of assets under advice. Chapter 3 of this PJCCFS Inquiry provides details
April 23, 2009	Timbercorp, a large listed company and RE of agribusiness managed investment schemes (34 MIS with $1.095 billion invested by 18,400 investors) was placed into administration	A PJCCFS Inquiry held into Agribusiness Failures provides more information.
May 15, 2009	Great Southern, a large listed company and RE of agribusiness managed investment schemes (43 MIS with $2.2 billion invested by 52,000 investors) was placed into administration	See here for analysis of Great Southern Failure. Court actions over MIS investor liability for repayment of borrowings made to purchase units schemes were still underway a decade later.
March 13 2009	Babcock & Brown entered voluntary administration. Large losses to shareholders and debtholders and replacement as RE of managed funds which had large debt levels)	By 2006 it held or managed (as RE) $72 billion of assets. Its market cpitalisation peaked at $9.1 billion Often described as a "Mini-Macquarie"- adviser/ arranger/ investor of structured asset-backed transactions, RE of MIS, operating in Real estate, infrastructure, operating leasing, structured finance, funds management and investing. Liquidation expected to be finalized in 2023.

Oct 2009	Trio/ASF investigated by APRA/ASIC for fraud and subsequent losses to superfund members.	A Treasury Review provides detail on how Trio, which was a RE for 28 managed funds and SRE for 4 super funds, invested those funds with its offshore hedge fund subsidiary, and subsequent losses of $176 mill. (Government compensates members of APRA super funds who lost $55mill, but not losses of members of SMSFs). Also a PJCCFS Inquiry
June 2010	Sonray Capital, "introducing" broker of clients (4,600 investors) to CFD providers (and "shadow" broker – using others to fulfil orders). entered administration /liquidated	Misuse of client funds to cover operating costs and theft by executive(s) ($46 million,) recovery rate of around 2/3.
Source: This article and author updates. Trevor Sykes *Six Months of Panic: How the Global Financial Crisis Hit Australia*, Allen & Unwin 2010 provides information on a number of these failures, as does Adam Schwab *Pigs at the Trough*, Wiley 2010.		