

Financial Reporting Panel

**Annual Report
2008-2009**

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The website address is: www.frp.gov.au.

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1 October 2009

The Hon Chris Bowen MP
Minister for Financial Services, Superannuation and Corporate Law
Parliament House
CANBERRA ACT 2600

Dear Minister

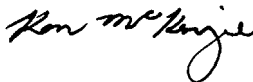
ANNUAL REPORT 2008-09

I have pleasure in presenting to you, in accordance with section 239AM of the *Australian Securities and Investments Commission Act 2001*, the 2008-09 Annual Report on the operations of the Financial Reporting Panel (FRP) for presentation to the Parliament.

The report has been prepared in accordance with 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 report sets out the FRP's role as the primary adjudicator between ASIC and lodging entities in relation to the application of accounting standards in financial reports and gives an overview of the FRP's operational program, membership, financial information and management.

Yours sincerely



Ken McKenzie
Chairman

CONTENTS

INDEX OF COMPLIANCE	VI
INTRODUCTION AND GUIDE TO THE REPORT	VII
Other sources of information.....	vii
Enquiries	vii
REVIEW BY THE CHAIRMAN	1
Activities during the year.....	1
Outlook for 2009-10	1
OVERVIEW OF THE FRP	3
Role and functions of the FRP	3
Referrals to the FRP	3
Status of an FRP report	4
Panel members	4
Organisational structure.....	7
PERFORMANCE INFORMATION: OUTCOME AND OUTPUT INFORMATION.....	9
Outcome and output structure	9
Performance information.....	10
Financial Reporting Panel — financial information	11
Notes to the schedule of revenue and expenditures for the year ended 30 June 2009	11
MANAGEMENT, GOVERNANCE AND ACCOUNTABILITY.....	13
Chairman.....	13
Governance	13
Management of human resources	14
Staffing information	14
Remuneration	15
Workplace diversity.....	15
Industrial democracy.....	15
Occupational health and safety (OH&S).....	15
Consultants and competitive tendering and contracting.....	15
Commonwealth disability strategy	16
Discretionary grants	16
Advertising and market research	16
Environmental performance.....	16
Freedom of information.....	16
Regulatory impact statements	18
ABBREVIATIONS AND ACRONYMS	19

INDEX OF COMPLIANCE

REQUIREMENT	PAGE
Letter of transmission	iii
Aids to access	
Contents	v
Compliance index	vi
Contact officer	vii
Introduction and guide to report	vii
Abbreviations and acronyms	19
Review by the Chairman	1
Overview	3
Program performance reporting	
Performance information	10
Financial information	11
Management, governance and accountability	
Governance	13
External scrutiny	13
Management of human resources	14
Staffing information	14
Workplace diversity	15
Industrial democracy	15
Occupational health and safety	15
Consultants and competitive tendering and contracting	15
Discretionary grants	16
Advertising and market research	16
Environmental performance	16
Freedom of information	16

INTRODUCTION AND GUIDE TO THE REPORT

The Financial Reporting Panel (FRP) was established under the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004* (CLERP 9 Act) and formally commenced its operations in July 2006. The FRP's primary function is to resolve disputes between the Australian Securities and Investments Commission (ASIC) and a company, disclosing entity or registered scheme over the application of accounting standards in its financial reports.

The relevant legislation pertaining to the FRP is Division 9 of Part 2M.3 of the *Corporations Act 2001* and Part 13 and Division 2 of Part 7 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

This report gives an overview of the FRP's operational program, membership, financial information and management.

Other sources of information

The FRP publishes all its public documents on its website. These include media releases, determinations issued and annual reports.

The FRP website address is www.frp.gov.au.

Enquiries

The contact officer for enquiries about this report is

Director
Financial Reporting Panel
Australian Treasury
Langton Crescent
PARKES ACT 2600

Telephone: 02 6263 3183

Facsimile: 02 6263 2770

REVIEW BY THE CHAIRMAN

Activities during the year

The FRP can only hear cases if matters are referred to it by ASIC or lodging entities. No matters were referred to the FRP during the period.

Though the FRP received no referrals during the period, the presence of the FRP may have acted as a strong incentive for companies to meet their financial reporting obligations. ASIC has noted that it has identified a number of cases to refer to the FRP, but when approached by ASIC about the referral, companies have agreed to amend their accounting practices.

During the period, the FRP conducted a strategic review of its operations. The FRP considered the possibility of expanding its functions from the resolution of disputes to the surveillance of financial reporting practices in the market. A memorandum of understanding between ASIC and the FRP setting out such arrangements was considered as part of this process.

FRP members have considerable experience and knowledge of financial reporting matters and it was noted that they could add significant value to the regulation of financial reporting in Australia by becoming involved in financial reporting surveillance.

However, these potential benefits were ultimately outweighed by the significant potential for duplication with the work of ASIC and the possibility of perceived conflicts between the FRP's impartial dispute resolution function and involvement in market supervision.

Mr Paul Shannon resigned from the Chairmanship and the Panel during the period. Mr Shannon had been Chairman of the Panel since its inception, and I thank him for his contribution to the development of the FRP. The Chairman of any new body faces any number of risks and challenges. The fact that he was prepared to meet them head on is a testament to his personal drive and professional integrity.

Outlook for 2009-10

The adverse economic and market conditions which were manifest during 2007-08 have continued through most of 2008-09, placing sustained pressure on Australian companies and accounting practices.

ASIC has announced its surveillance priorities for financial reports which relate to the 2008-09 financial year. Areas of interest continue to include asset impairment, off-balance sheet arrangements, fair value measurement, financial instrument disclosures and the going concern assumption. These priorities reflect the financial market conditions facing Australian companies.

The FRP's main focus for 2009-10 will continue to be ensuring that it is ready to resolve any disputes emanating from ASIC's current surveillance program. In particular, the FRP will be working to ensure continued communication with key stakeholders.

OVERVIEW OF THE FRP

Role and functions of the FRP

The FRP commenced operations in July 2006. The Panel is established under the CLERP 9 Act and provides an alternative dispute resolution mechanism to determine contested issues between ASIC and entities concerning the application of accounting standards and the 'true and fair' view requirement in financial reports.

Prior to the establishment of the FRP, the only method for resolving these disputes was through legal action between ASIC and the entity, which has the potential to be both a costly and a lengthy process. The FRP provides a more timely avenue for resolving these cases (the Corporations Act requires the FRP to determine cases within 60 days of the matter being referred to the Panel). In addition, matters referred to the FRP are considered by people experienced in accounting matters, helping to reduce the cost of handling these disputes and facilitating more appropriate outcomes.

A similar regime is also in place in the United Kingdom, where accounting disputes are heard by the Financial Reporting Review Panel in the first instance rather than the courts.

Referrals to the FRP

Disputes between ASIC and an entity concerning a financial report can be referred to the FRP by:

- (a) ASIC, after giving the entity whose financial report is considered deficient 14 days to respond to a notice stating ASIC's intention to refer the matter to the FRP and the reason for doing so and any changes necessary to correct the financial report; or
- (b) an entity, where ASIC has informed the entity that its financial report does not comply with the Corporations Act and ASIC has consented to the referral to the FRP.

The FRP has the power to dismiss a referral at any stage.

Status of an FRP report

A report of the FRP on whether a financial report complies with the financial reporting requirements of the Corporations Act is not binding. However, ASIC has publicly stated that it will support the findings of the FRP and a court may have regard to the FRP's report in determining whether the entity's financial report complies with the Corporations Act.

The FRP is required to give a copy of its report to ASIC and the entity. If the entity is listed, a copy must also be given to the relevant market operator (usually the Australian Securities Exchange). ASIC also 'must take such steps as it considers reasonable and appropriate' to publicise the FRP's report and whether the entity has made the changes to its financial report (if any) recommended by the FRP.

Panel members

The Panel is comprised of part-time members with knowledge or experience in accounting, auditing, business, company administration or law. All appointments are made by the responsible Minister.

As at 30 June 2009, the Panel comprised nine members including the Chairman (details below). During the period, the previous Chairman, Mr Paul Shannon, resigned from the Panel. Mr Ken McKenzie was appointed as the new Chairman. Professor David Boymal and Messrs Roger Cotton and Bill Palmer were appointed to the Panel during the period. The terms of all appointments expire on 30 June 2010.

Mr Ken McKenzie, Chairman

Mr McKenzie has substantial experience in the manufacturing, distribution and marketing of consumer products industry. He is the Chief Financial Officer – Statutory and Compliance at Coca-Cola Amatil Ltd and previously held the positions of Group Controller and Corporate Planning Manager. He has been extensively involved in mergers and acquisitions and business reorganisation. Recently, he participated in the International Accounting Standards Group (a group that acted as an avenue for dialogue between the Government and other stakeholders on issues surrounding the adoption of International Accounting Standards). He is also the current Chair of the ASIC Standing Committee – Accounting and Auditing.

Prior to joining Coca-Cola Amatil Ltd, he worked with the Reckitt and Colman Group in key senior financial positions across various businesses.

Professor David Boymal

Professor Boymal has extensive experience in standard-setting over the last 20 years as the immediate past Chairperson of the Australian Accounting Standards Board and a member of the International Accounting Standards Committee, the Urgent Issues Group and International Federation of Accountants. He is Adjunct Professor of Accounting at RMIT University and a past National President of CPA Australia. He is a past senior partner and National Director – Accounting and Audit Standards of Ernst & Young after a long and distinguished career with the firm. In his professional capacity, he has earned standing within the accounting profession and support from the wider business community.

Professor Michael Burgess

Professor Burgess is an Adjunct Professor of Commerce at the University of South Australia and a consultant to KPMG in the areas of health and not-for-profit organisations. He is also the Chairman of Country Health South Australia. He was previously a senior partner at KPMG. Over a period of 25 years, he was actively involved in providing audit and financial advisory services to clients in Australia, Canada and the United States of America in the areas of financial services, insurance, retailing, health care and manufacturing. He is also a former member of the Board of Medical Insurance and the Advisory Board of the Australian Broadcasting Corporation.

Mr Roger Cotton

Mr Cotton is the immediate past Chief Executive Officer of the National Institute of Accountants and is the current independent Chairman of Southern Rocklobster Limited, among other senior board positions that he currently holds. He has longstanding experience in consulting and a corporate record in business development, brand stewardship and market positioning. He is well respected in the accounting profession and business industry.

Dr Allen Craswell

Dr Craswell is Emeritus Professor at the University of Sydney. He has significant knowledge of accounting and auditing, having spent several

decades in teaching and as a Head of Department in Accounting, both in Australia and abroad. He has held professorial appointments at the Universities of Sydney, Queensland and Melbourne. He is a member of the Education Board of the Institute of Chartered Accountants in Australia and served as a member of the Australian Auditing Standards Board. He has produced a number of books, articles and edited works in auditing and accounting.

Ms Brigid Curran

Ms Curran is an independent financial reporting consultant. She has previously held positions as National Technical Partner for PricewaterhouseCoopers and was a board member of the Australian Accounting Standards Board and a member of the Urgent Issues Group. She has had a long history of involvement in the development and issuance of accounting pronouncements during her employment with the Australian Accounting Research Foundation (AARF), which included a period of secondment as technical director of the International Accounting Standards Committee.

Mr Martin Fensome

Mr Fensome is the Partner in Charge of the Audit and Assurance division of Bentleys Melbourne. He has over 25 years experience, both within Australia and overseas, in providing external and internal assurance services to a broad range of clients in both the private and public sector and has made numerous presentations at various forums on financial reporting. He was previously a senior project manager with the AARF.

Mr Bill Palmer

Mr Palmer is the Director – Asia of the Institute of Chartered Accountants in Australia. He has also held the position of General Manager – Standards & Public Affairs with the Institute. Prior to joining the Institute he was a partner at PricewaterhouseCoopers for 24 years involved in audit engagement. He has extensive experience with business auditing and accounting practices.

Mr Ted Rofe

Mr Rofe was a Director and Chairman of the Australian Shareholders Association. He has practiced as a solicitor in NSW and has lectured in Financial Accounting at the University of NSW. He has also been a member

of the Urgent Issues Group, the AARF Legislation Review Board, the Corporations Law Simplification Consultative Group and the Australian Securities and Investments Commission Consumer Advisory Panel.

Organisational structure

The Panel's funding is included in the Treasury budget, and the Panel's staff are employees of Treasury.

PERFORMANCE INFORMATION

OUTCOME AND OUTPUT INFORMATION

Outcome and output structure

In 2008-09 the Panel's functions contributed to Treasury's Outcome 4: 'Well-functioning markets'.

The Panel has characterised the output of its functions as being: dispute resolution (including industry liaison and consultation).

The best fit for Treasury's output to which the Panel's outputs contribute is the Treasury output 'Financial system and corporate governance policy advice'.

Chart 1: Outcome and output flowchart

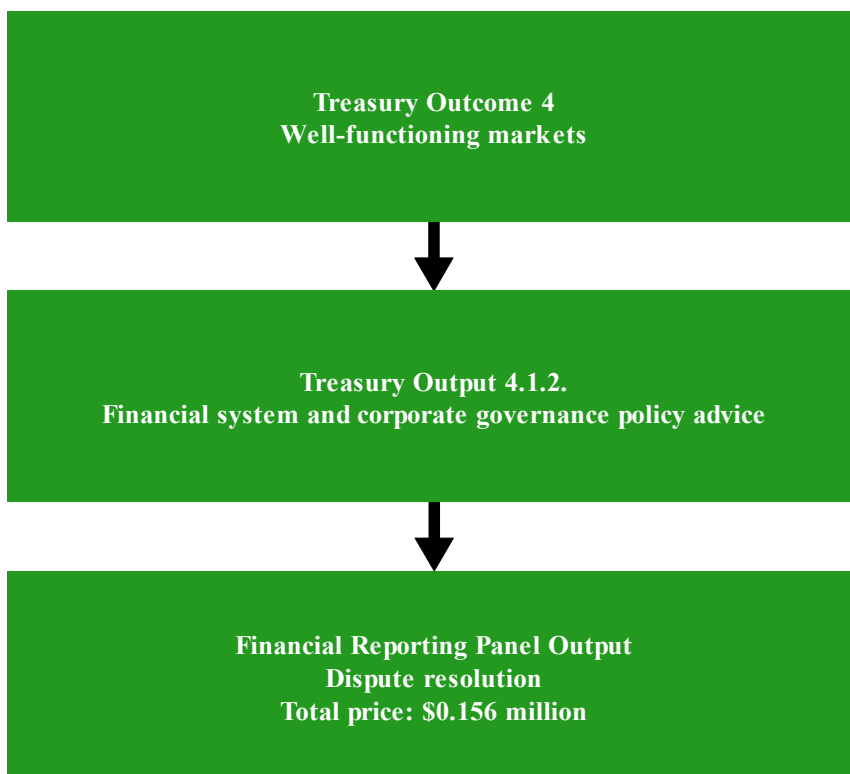


Table 1: Resources for outcomes and corporate governance

	Budget Estimate 2008-09 (\$'000)	Actual 2008-09 (\$'000)	Variation	Budget Estimate 2009-10 (\$'000)
Financial Reporting Panel				
Total revenue from Government (appropriations) contributing to price of agency outputs	780	780	0	390
Total revenue from other sources	0	0		0
Total price of agency outputs	780	156	624	390
			2008-09	2009-10
Average staffing levels (number)			0.2	0.2

Performance information

Treasury output 4.1.2 — Financial system and corporate governance policy advice

Dispute resolution decisions are timely, consistent, procedurally fair and based on the correct application of accounting standards.

2008-09 outcomes

The existence of the Panel as a fair, timely and inexpensive dispute resolution provider has contributed to well-functioning markets by assisting in the resolution of disputes on accounting standards.

Financial Reporting Panel — financial information

Table 2: Schedule of Revenues and Expenditures unaudited — for the year ended 30 June 2009

	\$
Appropriated revenues	
Revenues from Government	780,000
Total revenues	780,000
Employee expenses	
Salaries	20,435
Employer superannuation	3,454
Other	3,600
Total employee expenses	27,489
Operating expenses	
Travel	1,487
Property operating expenses	81,414
Depreciation	38,409
Other expenses	6,933
Total operating expenses	128,243
Total expenses incurred to 30 June 2009	155,732
Balance of allocation after operating expenditure	624,268

Notes to the schedule of revenue and expenditures for the year ended 30 June 2009

Statement of Accounting Policies

The significant accounting policies which have been adopted in the preparation of this financial information are:

Basis of preparation

The financial information is special purpose financial information, prepared for inclusion in the Financial Reporting Panel Annual Report for the year ended 30 June 2009. The financial information has been prepared on an accruals basis.

Revenue recognition

Government appropriations

Revenues from Government appropriations are recognised when received.

Expenses

Expenses are recognised as they accrue. The Panel's expenses for 2008-09 are also recorded in Treasury's audited financial statements for the period 1 July 2008 to 30 June 2009.

Balance of allocation after operating expenditure

The balance of allocation after operating expenditure for the period 1 July 2008 to 30 June 2009 was a surplus of \$624,268.

Salaries and members' annual sitting fees

Salaries and members' sitting fees are recognised as they accrue.

Acquisition of assets

Assets

All assets greater than \$2,000 including property, plant and equipment are initially capitalised at their cost at the date of acquisition, being the fair value of the consideration provided plus incidental costs directly attributable to the acquisition.

MANAGEMENT, GOVERNANCE AND ACCOUNTABILITY

Chairman

The Panel is made up of part-time members appointed by the Minister. The Minister has appointed Mr Ken McKenzie as Chairman. The Chairman's responsibilities include:

- liaising with the Minister, Government, Treasury and stakeholders;
- reviewing the performance of the Panel Executive;
- making Panel rules;
- appointing the Chairman for 'Sitting Panels'; and
- considering the interests of Sitting Panel members for possible conflicts of interest.

Governance

External scrutiny

The FRP's determinations are not binding on either ASIC or the lodging entity. However, ASIC has publicly stated that it will support the determinations made. Technically, the FRP's decisions are subject to review by the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977* but such reviews are considered unlikely given the non-binding nature of the FRP's determinations.

The FRP is an alternative dispute forum which assesses the facts of a matter and interprets how they fit within the existing accounting standards. However, the FRP recognises the importance of the disputants being comfortable with the process and readily accepting the validity of its determinations. The approach adopted by the FRP, whilst not strictly allowing for a consensus-orientated approach, is one of informality and information sharing with the goal of achieving agreement of the disputants to the determination.

Ethics

FRP staff are required to adhere to the Australian Public Service values and code of conduct under the *Public Service Act 1999*.

Australian Public Service values include performing functions impartially and professionally; the highest ethical standards; open accountability; and delivering services fairly, effectively, impartially and courteously to the Australian public.

The requirements of the code of conduct include honesty, care and diligence, compliance with the law and avoiding conflicts of interest.

Government scrutiny

The FRP was not subject to any reports by the Australian National Audit Office or any Parliamentary committees during 2008-09.

Ombudsman

The FRP was not subject to any reports by the Commonwealth Ombudsman during 2008-09.

Management of human resources

As at 30 June 2009, the FRP's administrative functions were performed within the Treasury. During the period, resource requirements were minimal and were allocated as required.

Staffing information

The following table represents the number of staff employed by the FRP, by classification and gender, as at 30 June 2009. Permanent staff are employed under the Public Service Act.

Table 3: Operative staff by classification and gender

Classification	Permanent full time		Total
	Male	Female	
EL1	0.2		0.2
Total	0.2	0	0.2

Remuneration

The Treasury Certified Agreement 2007-2009 determines the salary rates for non-SES staff of the FRP. Details and statistics on non-SES remuneration are included in the Treasury Annual Report, Part 3: Management and Accountability, Management of Human Resources.

Workplace diversity

The administrative functions of the FRP were performed by the Treasury. As such, the FRP adopts Treasury's policies and procedures in relation to Equal Employment Opportunity (EEO). Details and statistics on operative and paid inoperative staff by EEO target group and EEO appointments to the FRP are included in the Treasury Annual Report, Part 3: Management and Accountability, Workplace Diversity.

Industrial democracy

The FRP has adopted Treasury's Certified Agreement, Performance Management System and Treasury Management Model. Industrial democracy issues are dealt with by Treasury's Workplace Relations Committee.

Occupational health and safety (OH&S)

As employees of Treasury, FRP staff have the benefit of Treasury's OH&S programs and functions. The FRP has adopted the Employee Assistance Program, an external service organised by Treasury for employees and their families.

There were no accidents, injuries or dangerous occurrences notified to Comcare in 2008-09.

Consultants and competitive tendering and contracting

The FRP did not employ any consultants or engage in any competitive tendering and contracting in 2008-09.

Commonwealth disability strategy

The FRP adopts Treasury's policies and procedures in relation to the Commonwealth's disability strategy.

Discretionary grants

The FRP made no discretionary grants in 2008-09.

Advertising and market research

The FRP did not carry out any advertising or market research during 2008-09.

Environmental performance

The administrative functions of the FRP were performed by the Treasury. As such, the FRP adopts Treasury's policies and procedures in relation to environmental performance. Details of Treasury's policies in relation to energy management, paper and glass and plastics recycling, procurement practices and water usage are available in the Treasury Annual Report, Part 5: Appendices, Ecologically sustainable development.

Freedom of information

Given the commercially sensitive nature of matters being considered, and the time pressures imposed on the FRP by relevant legislation, proceedings are generally conducted in private. However, the FRP has the power to invite submissions from any person, to accept submissions made by interested persons who are not formal parties to specific proceedings, and to call for persons to make submissions in relation to specific proceedings.

Statement under section 8 of the *Freedom of Information Act 1982*

The Financial Reporting Panel is an agency within the Treasury portfolio in relation to the application of the Freedom of Information Act, and was established under section 239 of the ASIC Act.

Organisation, functions and powers

The FRP's organisation, functions and powers are set out in previous sections of this report.

Categories of documents held by the Panel

The Panel maintains the following categories of documents:

- lodged applications;
- correspondence, evidence and submissions relation to proceedings;
- independent expert advice;
- reasons for decisions;
- press releases;
- rules for proceedings;
- research relating to accounting issues and standards;
- administrative and financial documents relating to the Panel's operations;
- general correspondence; and
- resources (that is, internet links to: Australian legislation and regulations; relevant Parliamentary reports; international regulators; Australian corporate law websites; and professional associations' websites).

The documents accessible to the public for viewing are the FRP's determinations, press releases and annual reports.

Access to documents

The primary method of access to FRP documents is from the FRP website. The FRP seeks to ensure that all publicly available documents are on its website.

Alternatively, formal freedom of information requests can be sent to:

The Freedom of Information Officer
Australian Treasury
Langton Crescent
PARKES ACT 2600

Freedom of information activity in 2008-09

The FRP did not receive any applications for access to documents under the Freedom of Information Act in 2008-09.

Regulatory impact statements

The FRP did not submit any regulatory impact statements in 2008-09.

ABBREVIATIONS AND ACRONYMS

AARF	Australian Accounting Research Foundation
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
EEO	Equal employment opportunity
FRP	Financial Reporting Panel
OH&S	Occupational health and safety

