



### Client / Matter

The Australian Securities and Investments Commission (ASIC).

### Appointment

We were approached by ASIC to act as Provisional Liquidators and subsequently Official Liquidators of seven companies and Court appointed Receivers and Managers of the assets of six trusts associated with the directors of the companies.

The companies and trusts were alleged by ASIC to be operating an unregistered managed investment scheme and had raised funds from investors of \$12 million at extremely high interest rates for short periods of time. Most investors had not received any interest payments or the return of their initial investment.

ASIC alleged that the companies and their directors had contravened the Corporations Act and the ASIC Act, had operated an unregistered managed investment scheme and misled investors. ASIC was further concerned that the funds raised from investors had been on-lent to other companies and trusts associated with the director contrary to the statements in the prospectus.

### Issue

The directors had raised funds from investors to fund property developments in NSW and Victoria. The directors were alleged to have intermingled the funds by transferring them through a number of associated companies and through trusts of which they were the primary beneficiaries.

Due to the intermingling of the funds and assets and purported changes in the trustees of the trusts, it was difficult to trace the flow of funds.

In addition, significant sums of money had also been borrowed by the companies and trusts from financiers to commence the property developments. The investors had been led to believe that they would receive a return from the development of the properties. However, the properties were heavily encumbered to the financiers as a result of failure to meet many of the mortgage repayments. We assisted ASIC to determine that the directors utilised significant amounts of the investors' money to fund their personal lifestyle.

### Solution/Outcome

Taylor Woodings:

- located and secured the assets of the companies and trusts
- investigated the establishment and conduct of the scheme and raising of funds from investors
- investigated the intermingling of investors' funds throughout the companies and trusts
- prepared extensive reports for the Supreme Court of NSW in a short period of time
- provided evidence to ASIC in respect of their ongoing investigations and prosecutions
- liaised with a number of secured creditors and financiers in respect of securing assets and offering for sale
- provided extensive information and informal counsel to the investors
- located books and records not initially provided by the directors
- conducted a solvency investigation in respect of challenging specific transactions entered into by the directors

A positive outcome was achieved with a successful asset realisation program and a thorough investigation of the directors' activities.