

Risky lending leaves Aussies homeless
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High-risk lending during the recent property boom has left thousands of Australians penniless and homeless, indicating there is a major gap in the regulation of the property investment market.

About 4,000 people have lost approximately \$300 million in the collapse of Perth property developer Westpoint Corporation due to high-risk lending schemes.

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Real Estate Consumer Association president and long-time consumer advocate, Denise Braily, said the large sum lost is likely to double as the investigations roll out.

Ms Braily said some investors, many of whom were retirees, were encouraged to put their superannuation or the equity in their homes into Westpoint companies for a short period - three months, six months or a maximum 12 months - to boost their savings.

"This was done under a strategy through financial planners that are licensed and that ASIC (Australian Securities and Investment Commission) was the watchdog," she said.

"(Investors) were told it was low-risk and we now are learning it was high-risk. Consumers placed their faith in an industry that is out of control."

But ASIC chairman Jeffery Lucy said he did not feel that ASIC failed the consumer, although he admitted the organisation has some responsibility in protecting market integrity.

"It is correct that we clearly have responsibilities under the ASIC Act and this is one of the exact reasons we have taken Westpoint to court in 2004 on the basis that the promissory notes that they were issuing should be regarded as debentures and therefore within our jurisdiction," he said.

However, the case is still yet to be decided in the Western Australia Court of Appeal.

Many investors in the Westpoint scheme did not know that their financial planners were pocketing big commissions of up to 10 per cent, Mr Lucy said.

Ms Braily said commissions for financial planners should be completely abandoned, while Mr Lucy said "commissions no doubt can cause wrong behaviour".

He said ASIC would like the predominant remuneration for financial planners to be a fee for service rather than commission based.

Hall Chadwick accounting firm partner Geoff Macdonald said there was a problem with the regulation of the property investment market.

"ASIC has been dodging the issue saying that these people don't come under their control," he said.

"The real estate people say it's not theirs, the fraud squad say it's not theirs, so there is a problem in that there is a gap in regulation of these off-the-plan marketers.

"There are laws about capital raising and that was being abused by people such those at Westpoint."

The Westpoint disaster has been likened to the Savings & Loan debacle in the US in the 1980s where deregulation, mismanagement, failed speculation and fraud caused a total loss of an estimated \$US150 billion (\$A203.36 billion).

In order to avoid such a crisis again here in Australia, Ms Braily and Macquarie Bank Banking and Property Group head Bill Moss are calling on the federal government to form a forensic investigative task force in the finance and property sector to protect consumers.

But Mr Lucy said the required law reform is "not within the competence of the federal government, it is something that constitutionally is with the states".

Mr Lucy emphasised that ASIC's investigation into the Westpoint crisis is only just beginning and it is focusing on the company, its directors, the financial planners and third parties such as auditors and lawyers.

"We are trying to engage with investors to try to help them," Mr Lucy said.

"There clearly will be some recovery of money but how much we don't know."

Mr Lucy said more people need to look at the risks involved before putting all their eggs in one basket.

"I struggle to understand how it could ever be appropriate to put 180 per cent of your assets into one investment," he said.

This week law firm Slater and Gordon said it would begin legal action against the 100 or so financial planners who advised about 2,000 investors to put money into seven of the mezzanine firms associated with Westpoint.