

Finance Brokers Supervisory Board

ANNUAL REPORT

1 JULY 2000 TO 30 JUNE 2001

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Statement from the Chairman

As Chairman of the Finance Brokers Supervisory Board I now present the Board's Annual Report for the period 1 July 2000 to 30 June 2001.

The past year has presented the Board with many challenges. In order to meet its obligations under the legislative charter in a systematic and structured manner the Board adopted a Business Plan for 2000 and beyond. The Plan embodies the various components of the Board's regulatory program, encompassing ongoing statutory activities and developmental initiatives. The Board's initiatives include many of the reforms recommended by the Gunning Committee of Inquiry Into the Finance Brokers Supervisory Board. The Board also confirmed Governance Standards to guide its operation.

To assist in addressing and implementing the wide range of tasks facing the Board a number of formal standing Board committees or Panels were established which each included both Board members or a deputy and officers. The Panels cover the ambit of the Board's responsibilities in relation to complaints, inquiries, audits, licensing requirements, professional standards and the regulation of and enforcement within the finance broking industry. Panel members are able regularly to examine issues in detail at first hand and provide specific recommendations to the Board. The use of these Panels, which is discussed in greater detail in the body of this Annual Report, has assisted the Board in accomplishing important objectives during the past year. I would like to express my appreciation to the Board members and the deputy who actively participated in establishing the Panels, and providing leadership and direction in their work throughout the year.

One of the most significant achievements of the Board during 2000-2001 was the first stage of a review of the Code of Conduct. The revised Code of Conduct will be finalised and introduced by December 2001. In undertaking this first stage review, the Board has foreshadowed its intent to conduct a further review which will entail extensive consultation with industry and other stakeholders.

It is important to reaffirm the view of the Board that, generally speaking, finance intermediaries who are commonly now called "mortgage originators" fall within the meaning of "finance broker" for the purposes of the *Finance Brokers Control Act 1975*. Whilst cognizant of the Gunning Committee's recommendations towards deregulation in this area, the Board is yet to be convinced that the proposed direction is appropriate. Nonetheless, in recognition of the nature of their operations, the Board has adopted a policy of reduced fidelity bonds for finance brokers who do not deal in private mortgages. While granting this concession, a requirement for professional indemnity insurance is being concurrently introduced. In addition, six monthly audits are now required for brokers who are licensed to deal in the private mortgage market.

The Board was active in relation to its compliance and enforcement program during 2000-2001 with a carefully structured audit program and the hearing of more than 20 Inquiries continuing at various stages throughout the year. It is also regularly reviewing the full range of powers available for furthering its regulatory objectives.

During 2000-2001 the Board continued to provide information and support to the Gunning Committee of Inquiry into Fair Trading Boards and Committees and the Legislative Council Select Committee of Inquiry into Finance Broking. Similarly, as the Temby Royal Commission of Inquiry into the Finance Brokers Supervisory Board was established, the Board provided any information and support required, and will continue to do so during the course of the Commission's inquiry. The Board also provided recommendations for the reform of legislation which it is hoped will be progressed during the next financial year.

The body of this Report provides information about a number of significant issues addressed by the Board during the year. These issues include the roles of Supervisors appointed to three finance brokers; and the use of significant resources in responding to pre-action discovery orders in relation to CIV2704 of 2000, an action being contemplated against the Board.

The year 2000-2001 was a challenging yet productive one for the Board and the officers who support its work. On behalf of all members of the Board I would like to express sincere appreciation to all those who have provided the valuable assistance which has enabled the Board to achieve its objectives throughout the year.

Peter Jooste QC
CHAIRMAN

PREAMBLE

Regulation of Finance Brokers - Overlapping Jurisdictions

State Regulation

The State *Finance Brokers Control Act 1975* ("the Act") regulates various activities of finance brokers. In general terms, the Act requires that:

- licensees are fit and proper persons;
- licensees must hold a current business certificate in order to be able to carry on business;
- annual audits of trust accounts are undertaken and reports submitted to the Finance Brokers Supervisory Board;
- a bond is posted by each broker who has been issued with a business certificate in case of defalcation; and
- brokers comply with the Finance Brokers' Code of Conduct, which regulates the relationship between brokers and the parties to a loan transaction.

The Finance Brokers Supervisory Board is responsible for administering the licensing and disciplinary provisions of the Act.

Commonwealth Regulation

Finance brokers involved in the promotion of pooled mortgages are regulated under the Corporations Law administered by the Australian Securities and Investments Commission (ASIC).

On July 1, 1998, a comprehensive regulatory framework for managed investment schemes became law with the introduction of Chapter 5C of the Corporations Law. This regime regulates finance brokers who operate managed investment schemes with more than 20 members, or who promote pooled mortgage schemes.

This regime requires finance brokers who manage regulated investment schemes to:

- be a public company;
- be licensed by ASIC;
- issue a prospectus for each scheme; and
- register the investment scheme with ASIC.

Although the *Managed Investments Act 1998* came into effect from July 1, 1998, ASIC's enforcement of the provisions commenced later, towards December 1999.

Financial Services Reform Bill

The Financial Services Reform Bill 2001 (Commonwealth legislation) is "a Bill for an Act to amend the law relating to financial services and markets, and for other purposes". The main amendments produced by the FSR Bill will be to the *Corporations Act 2001* (Clth), and the consequential amendments produced will be to the *Australian Securities and Investments Commission Act 2001* (Clth), *Corporations Act 2001*, and *Reserve Bank Act 1959* (Clth).

The Bill provides a legislative framework through which the Australian Securities and Investments Commission will licence and regulate entities providing financial products and advice. Any entity carrying on a financial services business will be required to hold an Australian financial services licence. Failure to comply will be an offence which attracts a penalty of up to \$220,000 and/or 2 years' imprisonment for individuals. It is understood that the entities to be affected by the proposed Bill will have approximately two years after that date to comply with its requirements.¹

The Board and the Department of Consumer and Employment Protection will be monitoring the progress of the Financial Services Reform Bill, and assessing its potential impact on State regulation of finance brokers.

¹ The Financial Services Reform Act 2001 (Clth) passed through both Houses of the Parliament on 23 August 2001 however the Act will not become operative until 11 March 2002.

1. About the Finance Brokers Supervisory Board

Legislative Charter of the Finance Brokers Supervisory Board

The Finance Brokers Supervisory Board is established under the *Finance Brokers Control Act 1975*.

Mission

The mission of the Board is to fulfil its functions as described in the *Finance Brokers Control Act 1975* effectively and efficiently.

Responsibilities

The Board's key responsibilities as enacted by the *Finance Brokers Control Act 1975* are to:

- consider applications and grant licences to qualified applicants;
- consider applications and grant business certificates to industry participants;
- approve a Code of Conduct for finance brokers;
- fix maximum levels of remuneration for services rendered by licensees;
- ensure compliance with and enforcement of any special conditions on licences and business certificates, with the Code of Conduct for finance brokers, and with the *Finance Brokers Control Act 1975*,
- conduct disciplinary proceedings, hold Inquiries into the conduct of finance brokers and, when necessary, impose disciplinary penalties; and
- report annually to the Minister on the activities of the Board.

Objectives

In fulfilling its functions under the Act, the Board's key objectives are to ensure that licensees:

- are fit and proper persons to hold such licences and business certificates;
- enter the industry with adequate financial resources to carry on business in compliance with the Act and with adequate knowledge and experience of the industry;
- inform themselves about their duties and obligations under the Act, Regulations and Code of Conduct;
- conduct finance broking activities in accordance with the Act and adhere to the Code of Conduct;
- provide financial services that are appropriately and accurately described and/or advertised;
- behave in a way that is neither deceptive nor misleading;
- provide accurate and fair information about the terms of, and security offered for, loans;
- advise those who use their services about their responsibilities and obligations under any agreement negotiated by the finance broker;
- maintain trust accounts and have trust accounts audited in accordance with appropriate standards;
- provide protection for those who use their services by maintaining a current fidelity bond or bank guarantee if the licensee also holds a business certificate;
- provide protection to those who use their services by maintaining professional indemnity insurance if an unrestricted business certificate is held; and
- are treated fairly and equitably in any disciplinary procedures, together with all other parties.

Members of the Board during 2000-2001

The Finance Brokers Supervisory Board is appointed pursuant to the *Finance Brokers Control Act 1975* (the Act). The current members of the Finance Brokers Supervisory Board are all recent appointments. During the period September to November 2000 all existing Board members, Mr John Urquhart (Chairman), Ms Eve Broadley, Mr Andrew Lynn and Mr Ray Weir, resigned.

Mr Peter Jooste QC was subsequently appointed as Chairman of the Board in September 2000. Mr Jooste is a Queens Counsel and practises as a barrister, principally in the areas of corporate and commercial law. In addition, Ms Barbara Gordon (a legal practitioner) and Mr Keith Lingard (a person experienced in commercial practice) were appointed as members of the Board in November 2000. Ms Gordon is admitted as a practitioner of the Supreme Court of Western Australia and is a Lecturer in corporations law at the University of Western Australia. Mr Lingard is a Fellow of the Institute of Chartered Accountants in Australia.

Mr David Liggins was appointed as deputy for Mr Lingard. Mr Liggins is a private consultant who is a licensed valuer and real estate agent, and a Fellow of the Australian Property Institute.

The remaining two positions on the Board must be filled by persons who are licensed finance brokers and are elected for appointment by licensed finance brokers. Action to fill these positions initially was deferred pending the final Gunning Committee report and proposed amendment in the *Finance Brokers Control Amendment Bill 2000*. However, an independent Returning Officer was engaged to conduct an election in June 2001 to fill these vacancies. The result of the election will be forwarded to the Minister for Consumer Protection for approval by the Governor, as required by the Act.

- one shall be a person appointed as a member and Chairman;

Name:	Mr Peter Jooste QC
Occupation:	Barrister
Appointment date:	18 September 2000
Appointment expires:	6 April 2002
Appointment criterion:	Section 7(1)(a) of the <i>Finance Brokers Control Act 1975</i>
Deputy to Chairman:	No appointment as at 30 June 2001 ²

² Mr Grahame Young was appointed to the Board as Deputy Member to the Chairman in October 2001.

- one shall be a person who is experienced in commercial practice;

Name:	Mr Keith Lingard
Occupation:	Chartered Accountant
Appointment date:	6 November 2000
Appointment expires:	6 April 2002
Appointment criterion:	Section 7(1)(b) of the <i>Finance Brokers Control Act 1975</i>
Deputy to Member:	Mr David Liggins

- one shall be a person who is admitted and entitled to practice as a barrister, solicitor, attorney, and proctor of the Supreme Court, or in one or more of those capacities; and

Name:	Ms Barbara Gordon
Occupation:	Lawyer
Appointment date:	6 November 2000
Appointment expires:	6 April 2002
Appointment criterion:	Section 7(1)(c) of the <i>Finance Brokers Control Act 1975</i>
Deputy to Member:	No appointment as at 30 June 2001 ³

- two shall be persons who are licensed finance brokers and are elected for appointment by licensed finance brokers.

Appointment criterion:	Section 7(1)(d) of the <i>Finance Brokers Control Act 1975</i>
Appointments:	No appointment as at 30 June 2001 ⁴

³ Ms Shelly Whitaker was appointed to the Board as Deputy Member to Ms Gordon in October 2001.

⁴ Mr Lindsay Timms and Mrs Janet Lockett were appointed to the Board as Industry Representatives pursuant to section 7(1)(d) of the Act in October 2001. Mr Jeffrey Colley was appointed to the Board as Deputy Member to Mr Timms in October 2001.

Board Operations

Meetings of the Board

In accordance with section 9 of the *Finance Brokers Control Act 1975*, the Board meets regularly to discharge its principal duties and responsibilities. The Board meets at least monthly to consider new licence applications, renewal applications, policy issues, compliance and enforcement matters, and to initiate Inquiries. When required, additional meetings are held to address these matters. During the year under review the Board held 22 meetings. Appendix A provides a list of meetings held during 2000-2001.

Table 1: Members' Attendance at Board Meetings, 2000-2001

<i>Member</i>	<i>Meetings attended</i>	<i>Deputy member</i>	<i>Meetings attended</i>
Mr J Urquhart (Chairman)	5		
Mr R Weir	10		
Mr A Lynn	7		
Ms E Broadley	5	Mr B King	5
Mr P Jooste QC (Chairman)	15		
Ms B Gordon	12		
Mr K Lingard	9	Mr D Liggins	12

One of the Board's primary roles is to regulate entry into the finance broking industry and to set standards of conduct for industry practitioners. It does this by:

- determining applications for licences in accordance with the provisions of the Act, and assessing each applicant for a licence in terms of the qualifications it has approved for the grant of a licence; and
- re-assessing licensees at such time as applications are made for the renewal of business certificates.

The Board also holds inquiries to determine whether licensees are acting in conformity with any special conditions of their licences or business certificates, and whether licensees are complying with the Act and the Code of Conduct. The Board may apply sanctions, including disqualification, for non-compliance. In addition, the Board has the authority under section 73 of the Act to initiate District Court proceedings for suspension of a delinquent broker and for approval of the appointment of a Supervisor, and for related purposes.

To facilitate its operations, the Board has established a number of Panels comprising both members and officers of the Board. These Panels meet outside the context of Board meetings to consider matters in detail and formulate

recommendations to be considered by the full Board. The various Panels have made a major contribution to the efficient and effective operations of the Board.

Complaints Panel

The Complaints Panel is directly involved in overseeing the general compliance program, particularly as it relates to the investigation of complaints and subsequent remedial or enforcement action.

Audit Panel

The Audit Panel is directly involved in overseeing the financial compliance program, particularly as it relates to ensuring that all of the audit requirements of the Act are met by licensees.

Licensing Panel

The Licensing Panel interviews all applicants for finance brokers' licences and makes recommendations to the Board regarding the granting of a licence.

Code of Conduct Panel

The Code of Conduct Panel is responsible for review and revision of the Code of Conduct for finance brokers, and recommending to the Board that the proposed revisions be implemented.

Inquiries Panel

The Inquiries Panel oversees the conduct of formal Inquiries before the Board, ensuring that appropriate procedures are employed and consider the priority and scheduling of various matters.

Other Panels

An Education Panel and Scale of Maximum Fees Panel are to be commenced as soon as practicable.

Revenue and Expenditure

In accordance with section 175ZE of the *Electoral Act 1907 (WA)*, the Board is required to include in its annual report a statement setting out the details of all expenditure incurred in relation to the following-

- (a) advertising agencies;
- (b) market research organisations;
- (c) polling organisations;
- (d) direct mail organisations;
- (e) media organisations.

The financial affairs of the Board are administered by the (then) Ministry of Fair Trading⁵ and the Board does not maintain or administer any trusts or funds. As such, no expenditure in relation to these items was incurred by the Board over the period July 1, 2000 to June 30, 2001.

⁵ The Ministry of Fair Trading has become a part of the new Department of Consumer and Employment Protection.

3. Output Structure

Outputs are the services provided by the Board to the Western Australian community. They align with the State Government's Output Based Management regime. Outputs, which are aimed at achieving the Board's objectives, largely fall into two areas:

- the Business Regulation Output Area, and
- the Community Information Access Output Area.

These output areas reflect an output structure aligned with the objectives of the (then) Ministry of Fair Trading and within the parameters set by the WA Department of Treasury under the Ministry's resource agreement.

In addition to providing services to the community in the form of outputs, the Board's Business Plan for 2001 includes a number of developmental initiatives. The aim of these initiatives is to improve the quality of services and, therefore the quality of outputs, particularly as recommended in the *Report of the Gunning Committee of Inquiry into the Finance Brokers Supervisory Board* and the *Report of the Select Committee into the Finance Broking Industry in Western Australia*.

Elements of Output Area 1: Business Regulation

- Licensing Services (see section 4 of this report)
- General Compliance Program (see section 5)
- Financial Compliance Program (see section 6)

Elements of Output Area 2: Community Information Access

- Information/Education Program (see section 7)

4. Licensing Services

Ongoing Activities

The Business Plan of the Finance Brokers Supervisory Board identifies the key activities related to providing licensing services as:

- receipt and processing of applications for new licences and business certificates, and applications for renewal of business certificates;
- assessment of qualifications, experience and financial situation of applicants for licences, business certificates and exceptions;
- maintenance of licensing database; and
- consideration of regular reports on licensing matters and determination of appropriate action.

Licence and Business Certificates: Applications and Renewals

The Licensing Panel interviews all applicants for new licences as well as considering documentation provided by the applicants and checks carried out by officers of the Board. Applications for renewal of business certificates are generally determined on the basis of documentary evidence without a mandatory requirement for an interview. However, if appropriate (which is usually the case), an interview with the Licensing Panel is held.

Table 2: Occupational Licensing - Year End Totals, 3 Year Trend

	<i>Current at 30 June 1998</i>	<i>Current at 30 June 1999</i>	<i>Current at 30 June 2000</i>	<i>Current at 30 June 2001</i>
number of licences*	446	438	438	456
number of business certificates	152	156	150	144

- * **Note:** Subject to the Act and to the issue of a business certificate, or payment of a holding fee every three years, a finance broker's licence is continuous. However, a licence does not confer on a licensee the right to carry on business as a finance broker unless a business certificate is issued in respect of the licence. Licensees who do not hold business certificates may not carry on business as finance brokers, however they may be in the employ of a broker who holds a business certificate.

Pursuant to section 30 (3) of the *Finance Brokers Control Act 1975* a person may at any time surrender a licence or business certificate and must do so if he/she ceases to be qualified. Five finance brokers surrendered their Business Certificates to the Board during 2000-2001.

Upon termination of a Business Certificate the Board requires a termination audit for the relevant part of the year during which the finance broker was operating. The Board also requests those who had operated under unrestricted Business Certificates to provide information about any arrangements they have made for ongoing management of their loan portfolios.

Licensing Statistics 1998-2001

Licensing data for the financial year reveals a decrease of 4% (18) in the number of licensed finance brokers and a decrease of 4% (6) in the number of licensed finance brokers holding current Business Certificates.

Table 3: Occupational Licensing - Applications & Renewals, 4 Year Trend

<i>Applications</i>	<i>Approved</i>				<i>Refused</i>			
	<i>97-98</i>	<i>98-99</i>	<i>99-00</i>	<i>00-01</i>	<i>97-98</i>	<i>98-99</i>	<i>99-00</i>	<i>00-01</i>
New Licences	83	65	41	43	1	Nil	1	Nil
New Business certificates	24	21	14	14	Nil	Nil	Nil	Nil
Renewals of Business Certificates	28	25	35	43	Nil	Nil	Nil	Nil

Developmental Activities

The Board has identified the following areas as priorities for review and development in relation to providing licensing services:

- review policies underpinning licensing services as required;
- improve procedures related to issuing of licences and exceptions;
- document all procedures into a Licensing Procedures Manual;
- develop performance measures related to the quality and timeliness of licensing services provided by the Board;
- monitor and report on performance in the delivery of services; and
- database improvement.

These areas are consistent with the theme of the Report of the Gunning Committee on the importance of comprehensive policy and effective procedural practices in improving performance standards.

Licensing Panel

During 2000-2001 the Board established a Licensing Panel comprising a member of the Board, the Registrar and other appropriate officers of the Board. The Licensing Panel interviews each applicant for a finance broker's licence and makes recommendations regarding the grant of such licences to the Board. When interviewing applicants the Panel ensures that the applicant has appropriate experience and qualifications and is well informed about the duties and responsibilities imposed on finance brokers by the Act and the Code of Conduct. The Panel also considered other issues related to the granting of licences or Business Certificates to finance brokers.

The key objectives of the Licensing Panel are to ensure that:

- applicants are fit and proper persons to hold finance brokers' licences and business certificates;
- applicants enter the industry with adequate financial resources to carry on business in compliance with the Act and with adequate knowledge and/or experience of the industry; and
- applicants inform themselves about their duties and obligations under the Act, Regulations and Code of Conduct.

Licensing Policies

Section 27(1)(c) and (1)(d) of the *Finance Brokers Control Act 1975* provides for the grant of a licence by the Board to an individual if the Board is satisfied that the applicant “*is a person of good character and repute and a fit and proper person to hold a licence*” and the applicant “*has sufficient material and financial resources available to enable him to comply with the requirements of this Act*”. Part of the assessment as to whether a person meets these criteria may include a review of the applicant’s financial history.

At meeting 8 of 2001 held on 17 May 2001, the Board passed a resolution (118 of 2001) requesting the Registrar to arrange access to the Dun & Bradstreet Internet Alert Service on behalf of the Board, to enable bankruptcy and other appropriate searches to be carried out in relation to all new and renewed applications for licences. In addition to the other checks carried out, Dun & Bradstreet checks are now conducted as part of the routine licensing procedure, to determine whether an applicant has any outstanding debts and whether the applicant has ever been bankrupt.

Granting of Exceptions

In May 2001 the Board resolved not to support the granting of exceptions from the meaning of the word “finance broker” under section 5(2) of the *Finance Brokers Control Act 1975* by the Minister for Consumer and Employment Protection. The Board is of the view that, in granting such exceptions under the Act, there is no assessment of the applicants’ fitness and propriety to operate in the finance industry and no opportunity to ensure appropriate standards in relation to quality of services are maintained.

The Board sought the support of the Minister for the policy position it adopted. The Minister advised the Board that he was persuaded of the advantages of enhancing the professional status of the industry through comprehensive licensing and endorsed the Board’s recommendation. The Minister indicated that henceforth he will cease granting exceptions from the meaning of “*finance broker*” under Act, unless such an action is recommended by the Board on the basis that the applicant is operating as a finance broker in unique and extraordinary circumstances.

Reduction of Bonds

Pursuant to section 35 of the *Finance Brokers Control Act 1975* the Board shall not grant or renew a Business Certificate unless the applicant lodges a bond or guarantee with the Board. In the past the bond or guarantee required to be lodged has been in the amount of \$50,000 for all brokers regardless of the nature of their operations.

In recognition of the reduced risk to consumers of defalcation on the part of those who hold restricted business certificates, for example mortgage

originators, the Board has reviewed the amount of the bond or guarantee required from those licensees. Restricted Business Certificates limit the licensees to dealing with credit providers licensed under the *Credit (Administration) Act 1984* ('CAA'), and those entities exempted from licensing and mentioned in 7(1) of the CAA such as banks.

During 2000-2001 the Board adopted a policy that enabled restricted licensees to apply to lodge a bond or guarantee of \$5,000 with the Board. Approval is subject to the licensee meeting a number of conditions set by the Board, including that of maintaining professional indemnity insurance of at least \$1 million.

5. General Compliance Program

Ongoing Activities

The Business Plan of the Finance Brokers Supervisory Board includes a number of key activities related to monitoring general compliance with the requirements of the Act, the Code of Conduct and the Scale of Fees:

- investigation of complaints;
- monitoring of compliance with conditions placed on licences;
- applications to the District Court for supervision or suspension orders when appropriate;
- formal Inquiries by the Board into matters of compliance and disciplinary penalties when required; and
- application of other compliance/enforcement actions or sanctions as appropriate.

Complaints received

Individuals wishing to make a complaint in relation to the finance broking industry can make a written complaint, either directly to the Board or through the (then) Ministry of Fair Trading⁶. Every written complaint received by the Board is investigated by Officers of the Board and reports on those investigations are provided to and monitored by the Complaints Panel. When evidence warrants, these investigations may become the basis for formal Inquiries before the Board, on application or on the Board's own motion.

In addition to investigating complaints from individuals in the marketplace, the Registrar of the Board may initiate investigations on behalf of the Board if there is reason to believe that a finance broker may not be acting in conformity with any special conditions attached to his/her licence and business certificate or with the finance brokers' Code of Conduct or Scale of Fees. Such investigations are undertaken and, if it is considered appropriate, are brought before the Board for formal Inquiry.

In appropriate circumstances enforcement action for suspension or supervision of any delinquent finance brokers will be instigated under section 73 in the District Court.

⁶ The Ministry of Fair Trading has become a part of the new Department of Consumer and Employment Protection.

Number of complaints

The 1998-1999 Annual Report of the Finance Brokers Supervisory Board noted a substantial increase in the number of complaints received compared with the previous year. This increase began at the beginning of calendar year 1999 and was notable by March of that year. During 1999-2000 the number of complaints received by the Board increased again, from 86 in 1998-1999 to 124 in 1999-2000. Whilst trending such as this is always of concern nevertheless, it should also be noted that the complaints received by the Board related to only a small percentage of the 456 brokers licensed as of June 30, 2001. The number of complaints however, increased again during 2000-2001 to 165, representing an overall increase of 41 (33%).

The continuing increase in the number of complaints reflects in the main, the large number of problems experienced by investors in pooled mortgages. It also may be explained, but only in part, by the high public profile of inquiries into the industry. Extra vigilance has been applied through the Complaints Panel to ensure the Board's concern at the complaint increase receives appropriate analysis and response.

In addition to the broad range of enforcement, protective and disciplinary powers and functions, under section 73 of the Act, the Board may apply to the District Court for an order to suspend a broker from carrying on business as a finance broker or for their supervision. Such an application is by the Board on notice to the broker and must satisfy the Court that there are reasonable grounds for believing that a finance broker is incapable of properly conducting business or is not conducting business in accordance with the Act. The Board regularly monitors the potential for use of this section, such that responses to indications of delinquent conduct can be executed as effectively and promptly as possible.

Table 4: Complaints by financial year

<i>Financial Year</i>	<i>Complaints (July-Dec)</i>	<i>Complaints (Jan-June)</i>	<i>Total Number of complaints</i>
1995-6	14	18	32
1996-7	32	26	58
1997-8	19	25	44
1998-9	21	65	86
1999-2000	74	50	124
2000-2001	96	69	165

Licence Holders the Source of Complaints

Table 5 indicates the number of complaints received during 2000-2001 about finance broking activities grouped according to whether the finance broker which was the subject of the complaint held an unrestricted or restricted licence or was unlicensed. Brokers holding unrestricted licences are authorised to deal with private mortgage investments. Restricted licence holders are limited to dealing with credit providers licensed under the *Credit (Administration) Act 1984* (CAA), and those entities exempted from licensing and mentioned in section 7(1) of the CAA such as banks. Arguably the latter category pose reduced threats to lenders interests, but could for instance pose threats to borrowers interests.

Table 5: Complaints received during 2000-2001 categorised according to the licences held by the brokers

<i>Licence type</i>	<i>sub-group of complaints</i>	<i>number of complaints</i>	<i>% of complaints</i>
Unrestricted licence holders			
Six particular finance broking entities	89		54%
Other finance brokers/finance broking entities	32		19%
Subtotal	121	121	
Restricted licence holders		8	5%
No licence held		36	22%
Total		165	100%

Of the 165 complaints related to finance broking received during 2000-2001, 89 pertained to six particular finance broking entities, all of which held unrestricted licences. These entities have been the source of many publicised problems for investors which lead to a large number of complaints to the Board. For various reasons, including disciplinary or preventative actions by the Board, none of these entities are currently operating in the finance broker industry.

A relatively smaller number of complaints (8) have been received about the conduct of finance broking entities holding restricted licences. The remaining 36 complaints pertained to persons or entities that allegedly do not hold a finance brokers' licences when they should. Of these, 19 complaints (i.e. over 50%) related to allegations against persons or entities that carry on business as mortgage originators. The Board remains of the view that mortgage origination and similar activities are encompassed by the meaning of "finance broker" under section 4 of the *Finance Brokers Control Act 1975*, and as such, they are required to be licensed. Compliance and enforcement actions are consequently being implemented where evidenced.

Sources of Complaints

Complaints are received from members of the community and are also raised by the Registrar of the Finance Brokers Supervisory Board. Complaints raised by the Registrar are generally as a result of monitoring compliance with requirements of the *Finance Brokers Control Act 1975*. Table 6 indicates the number and proportion of complaints received from these two discrete sources.

Table 6: Sources of complaints received by the Finance Brokers Supervisory Board during 2000-2001

<i>source</i>	<i>number of complaints</i>	<i>% of complaints</i>
Complaints raised by the Registrar	20	12
Complaints received from the general community	145	88
Total	165	100

During 2000-2001, 145 complaints were received from the general community. These complaints pertained to a variety of issues, including the level of fees charged, mortgages in default and allegations about unlicensed finance broking. Twenty complaints were raised by the Registrar. Most of these related to qualified audit reports or delays in the lodgment of bonds or bank guarantees with the Board.

Disciplinary Inquiries

The Board has a disciplinary function pursuant to the *Finance Brokers Control Act 1975*. As such, it holds formal Inquiries to hear allegations of improper or delinquent conduct on the part of finance brokers. The matters heard generally are based on complaints received by the Board, but many arise from “in person applicants” or on the Board’s own motion.

During 2000-2001 five (5) formal Inquiries before the Board were concluded. As a result of these Inquiries two (2) persons were permanently disqualified from holding finance brokers’ licences and a third (3) was disqualified from holding a finance broker’s licence until further order of the Board. A fourth (4) broker was reprimanded for his conduct and fined \$1,000. Details of the outcome of these Inquiries are included as **Appendix C** to this Report.

Seven (7) Inquiries were currently before the Board at the end of the year. All but one of these matters had been heard for first mention by the Board, and further hearings had been commenced but temporarily adjourned in relation to four of the matters. As at 30 June 2001 each of the matters was to be further heard by the Board at appropriate dates to be set. Details of these matters are included in **Appendix C**.

Three (3) matters were heard by the Board but were adjourned pending the outcome of other proceedings in the criminal jurisdiction of the Courts. In each case the Board accepted an application to adjourn the Inquiry pending the outcome of the other court proceedings but with a formal undertaking that appropriate safeguards were in place including that the finance brokers concerned were not continuing to operate and would not breach the undertakings. Details of these matters also are included in **Appendix C**.

Despite approving applications for Inquiry, the Board did not proceed to hear a number of matters. In each of these cases the finance broker concerned had received a maximum penalty from the Board in respect of another matter, and was permanently disqualified from holding a finance broker's licence. As such, there was nothing additional the Board could impose by way of sanction on the brokers. These matters are listed in **Appendix C**.

Appointment of Supervisors

Within the provisions of the *Finance Brokers Control Act 1975* the District Court can, under certain circumstances, authorize the Board to appoint a Supervisor to the business of a finance broker. The role of a Supervisor as set out in section 75 of the Act is such that:

The supervisor shall carry on the business for the purpose of concluding or disposing of matters commenced but not concluded on behalf of clients of the business and, where necessary, for the purpose of disposing of, or dealing with, documents relevant to those matters...

During 1999 the Board successfully applied to the District Court for authorisation to appoint Supervisors to two finance broking businesses: Global Finance Pty Ltd and Rowena Nominees Pty Ltd (trading as Graeme Grubb Finance Broker). During 2001 the Board received similar authorisation and appointed a Supervisor to Knightsbridge Finance Pty Ltd. The work of the Supervisors is extensive, time consuming and complex, particularly with respect to Rowena Nominees and Global Finance. For the duration of the work of the Supervisors, the Board has received funding from the State Government to support their activities. Since the date of their appointments to 30 June 2001 approximately \$4 million has been incurred on costs associated with the activities of the Supervisors.

The Board has received regular updates on the progress including copies of various circulars forwarded to investors and borrowers by the Supervisors. A summary of the progress in these matters is provided below. As at June 30 2001 the work of the three Supervisors was under review to ensure timely completion.⁷

⁷ In September 2001 the Chairman of the Board, Mr Peter Jooste QC convened a committee of persons with expertise in law, accounting and public policy to review the appointment of Supervisors to finance brokers and make recommendations to the Board. The Board will make any final decisions as to when appointments of Supervisors will be varied or terminated.

Rowena Nominees (trading as Graeme Grubb Finance Broker)

Mr Mark Conlan of RSM Bird Cameron is the appointed Supervisor of Grubb Finance. Since his appointment he has identified a range of deficient management practices, which raised conflicting legal arguments as to the potential entitlements of investors. The Court issued interim orders to enable the Supervisor to perform his functions while protecting the interest of all investors generally. Since that time the Supervisor has referred a number of matters to the Court seeking directions. In an attempt to simplify the process in October 2000 the Court heard matters relating to one investment, that being the Hardie Development project. This trial will enable the Court to decide on a number of general matters including the issue of entitlement for registered and unregistered mortgagees. It is expected that the Court's decision will provide guidance for many matters that remain unresolved. As of the end of the 2000 – 2001 financial year the decision had not been handed down⁸.

Global Finance Pty Ltd

Mr Jeff Herbert of PPB Ashton Read is the appointed Supervisor of Global Finance. The Supervisor has identified a number of issues including the mixing of funds within the trust account. An application has been lodged with the Court to seek directions for the distribution of funds held in the trust account. The Supervisor developed a draft model for the distribution of funds for consideration by the Court. As the mixing of funds raises conflicting legal arguments investors have been invited to provide comment or draft alternative models. A number of parties successfully applied to the Court for an extension of time and it is now expected that the Court will consider these matters in September 2001.⁹

Knightsbridge Finance Pty Ltd

In January 2001 the Directors of Knightsbridge Finance Pty Ltd appointed a Voluntary Administrator of the company, an appointment which was subsequently confirmed by creditors of the company. Subsequently the Administrator was appointed to liquidate the company. On 25 February 2001, the Court approved the Board's application to appoint a Supervisor and on 27 February 2001 the Board appointed Mr Robert Dymock, an appropriately qualified Officer of the Board, to the position of Supervisor to Knightsbridge Finance Pty Ltd.

⁸ On August 4 2001 Justice Owen handed down his judgement in this matter. In short, his Honour's judgement found that:

- based on the doctrine of indefeasibility of title, mortgage entitlements should only be distributed to registered mortgagees;
- unregistered mortgagees will have recourse to any funds in the trust account;
- section 75 of the Act is problematic in the limits it places on the powers of Supervisors; and
- the Liquidator has standing to bring the application in furtherance of his duty to preserve trust property.

⁹ The application to seek directions for distribution of funds held in the trust account was heard before Justice McClure during the period 17 to 25 September 2001. However, Justice McClure reserved

Since that time Mr Dymock has fulfilled the duties of Supervisor and maintained the operations of Knightsbridge Finance Pty Ltd. The Supervisor has successfully reduced the loan portfolio from 169 loans totaling \$88 million down to 97 loans totaling \$42 million, as at the end of June 2001. The maintenance of supervisory services for investors has been funded from supplementary funding provided by the Treasurer. The costs of supervision of Knightsbridge Finance Pty Ltd since February 2001 have been approximately \$30,000 per month.

In contrast to the investment situations with Rowena Nominees and Global Finance Pty Ltd, the majority of the Knightsbridge Finance Pty Ltd loan portfolio falls under the jurisdiction of the Australian Securities and Investment Commission (ASIC) as a Managed Investment Scheme. As such the Board worked closely with ASIC in order to demarcate the regulatory boundaries whilst ensuring that the interests of the investors were protected as much as possible.

ASIC made application to the Supreme Court to appoint a Scheme Liquidator to the Knightsbridge Finance Mortgage Scheme (the managed investment scheme). ASIC's amended application to the Court was considered on Tuesday, 29 May 2001. Further hearing of the matter will not occur until August 2001.¹⁰

The Liquidator of Knightsbridge Finance Pty Ltd has responsibility for the care and management of the company's assets including the loan portfolio it manages. As Liquidator he also has the right to charge investors for the costs of managing their loans. However, in consideration for the Liquidator not charging investors for management and liquidation costs in respect of their loans the State Government agreed to provide funding for a period of time. This arrangement has ensured that investors' funds were not further eroded by such costs.

her decision pending receipt of a further analysis of the funds that were held in Global's trust account as at 19 February 1999 requested from the Supervisor of Global Finance.

¹⁰ A number of investors opposed the application to appoint a Scheme Liquidator. Despite several hearings in the Supreme Court little progress has been made. The Court approved ASIC making application to set a trial date on or after 18 September 2001.

Developmental Activities

The Board identified the following areas as priorities for review and development in the general compliance program:

- establishment of a Complaints Panel, and development and documentation of complaint handling processes;
- production of a Compliance Procedures Manual and implementation of staff training;
- development of a comprehensive general compliance strategy;
- consideration of appropriate rapid action/response techniques to suspend trading by brokers suspected of breaches of the Act;
- establishment of a Code of Conduct Panel, and review and revision of the Code of Conduct for finance brokers; and
- establishment of a Memorandum of Understanding with the Australian Securities and Investments Commission (ASIC).

These initiatives are consistent with the recommendations of the Gunning Committee of Inquiry in relation to enhancing the processes of industry regulation by the Board and the Ministry.

Compliance Strategy

To meet its objectives the Board has overseen programs designed to ensure industry compliance with:

- the general requirements of the Finance Brokers Control Act 1975;
- the articles in the Code of Conduct for finance brokers approved by the Board under section 81 of the Act; and
- general conditions placed on licences or business certificates pursuant to section 34 of the Act.

The Gunning Committee recommended that the Board and the Ministry of Fair Trading “develop a compliance strategy to guide them in identifying standards of acceptable conduct in the industry, the objectives to be achieved in regulating the industry and priorities and initiatives to be observed in enforcing the legislation”.¹¹ In response to this recommendation, the Board prepared a framework which articulates the nature and structure of the compliance program, together with criteria for identifying priorities for action.

¹¹ Report of the Gunning Committee of Inquiry into the Finance Brokers Supervisory Board, 1 September 2001. Recommendation 21, page 292.

The Board's general compliance program includes both reactive and proactive elements and is based on three types of activities:

- encouraging compliance by providing information to brokers and their clients, and reminding brokers of their obligations;
- monitoring compliance by checking that brokers are meeting the requirements of the Act, Code and conditions on licences; and
- taking remedial action by investigating complaints and allegations of breaches of the Act, Code or conditions on licences, imposing sanctions when such action is warranted and taking court action when appropriate.

As a part of its compliance strategy the Board has used graded criteria to assess the relative priority of investigating complaints and allegations of misconduct. Priority assessments have no relationship to the quality of investigations which are carried out. Rather they are used as a tool for directing the resources of the Board to best advantage. The relative priority of taking action on a matter is based on an assessment of:

- the potential impact of the matter;
- the background and history of the broker involved; and
- other factors such as current actions by other authorities or indications of system problems in the industry.

The Compliance Strategy has remained in a draft form while the principles underpinning it and the criteria for assessing priorities are used, evaluated and confirmed as being appropriate.

Complaints Panel

The Gunning Committee of Inquiry recommended that the Board develop improved complaint-handling procedures, and that a Complaints Panel be formed to take responsibility for ensuring that the procedures are observed (Recommendation 22¹²). In accordance with that recommendation a Complaints Panel was established comprising a member of the Board, the Registrar, an independent Legal Officer and other officers of the Board as appropriate.

¹² Report of the Gunning Committee of Inquiry into the Finance Brokers Supervisor Board, 1 September 2000, page 295.

The objectives of the Panel are to ensure that:

- complaints are investigated and any legal action is taken in an effective, efficient and timely manner;
- appropriate matters become the subject of Applications for Inquiry before the Finance Brokers Supervisory Board;
- the Board institutes Inquiries of its own motion in appropriate circumstances;
- decisions regarding the closure of files, or no further action to be taken by Officers on behalf of the Board, are appropriate; and
- systemic breaches of legislation or common problems in the industry are identified as early as possible and appropriate action is taken by the Board.

The work of the Complaints Panel has thus far been successful and, as such, this Panel has been used as a model for the establishment of four additional Panels working as sub-committees to support the Board.

Inquiries Panel

In June 2001 the Board established an Inquiries Panel comprising a member of the Board, the Registrar and appropriate Officers of the Board. The Panel will oversee the formal Inquiry procedures employed by the Board to ensure that Inquiries are conducted appropriately, and in a manner that takes into account the principles of natural justice.

The key objectives of the Inquiries Panel are to ensure that:

- legal action to bring matters before the Board for formal Inquiry are taken in an effective, efficient and timely manner;
- proper procedures and record keeping are followed in relation to any Inquiry before the Board;
- any follow up action to the outcome of Inquiries is appropriately undertaken on behalf of the Board; and
- reasons for decisions are recorded and easily accessible.

Cooperation with Police Service

Due to the commonality of some investigations being conducted, regular meetings are now held between Inspectors of the Board and Officers of the Major Fraud Squad. The primary purpose of these meetings is to discuss any problems that are emerging within the industry, and to ensure that common investigations are conducted between the two agencies in a coordinated manner. Reports on issues arising from these meetings are then made to the Board.

Cooperation with ASIC

The Gunning Committee of Inquiry into the Finance Brokers Supervisory Board recommended that “the Board and/or the Ministry of Fair Trading finalise a memorandum of understanding with the Australian Securities and Investments Commission” (Recommendation 20). The Committee suggested that this Memorandum of Understanding (MOU) “should provide for such matters as clarification of respective roles and responsibilities in regulating the finance broking industry, referral of complaints and exchange of information between the agencies”.

As at 30 June 2001 a final draft of an MOU between ASIC and the (then) Ministry of Fair Trading had been prepared and was being reviewed by the parties for finalisation in the near future. The Board has actively encouraged co-operation between the agencies to enhance regulation of common areas of concern in the finance broking industry and has supported efforts to formalise this relationship.

Code of Conduct Panel

To facilitate review and revision of the Code of Conduct for Finance Brokers, the Board established a Code of Conduct Panel comprising a member of the Board, a Policy Officer supporting the work of the Board and the Registrar. The Panel will have an ongoing role in evaluating the Code and ensuring that it remains appropriate to circumstances in the marketplace.

The key objectives of the Code of Conduct Panel are to ensure that:

- the Code of Conduct for finance brokers is revised in accordance with the recommendations of the Gunning Inquiry;
- the Code of Conduct encompasses those suggestions from stakeholders which are endorsed by the Board;
- appropriate consultation is undertaken with relevant stakeholders including industry associations and consumer spokespersons;
- recommendations for revision of the Code are put to the Board; and
- appropriate steps are taken to implement revisions to the Code of Conduct.

Revisions to the Code of Conduct for Finance Brokers

The current Code of Conduct for finance brokers came into operation on 23 June 2000. Since that time a number of shortcomings in the Code have been identified.

The Code of Conduct Panel reviewed and revised the Code to encompass the recommendations of the Gunning Inquiry and various suggestions from other sources. The Panel also made several changes to improve the general readability and presentation of the Code.

The revised Code of Conduct was sent for comment to various stakeholders and others who had provided suggestions upon which the revisions were based: the Mortgage Industry Association of Australasia (WA Branch), the Finance Brokers and Mortgage Originators Association, the Land Valuers Licensing Board, Ms Penny Searle, the Real Estate Consumers Association and Mr Doug Solomon. Various suggestions received from these stakeholders were included in the Code. It is anticipated that a revised Code of Conduct will be gazetted early in the next financial year.

There are a number of more complex issues that have not been addressed in this revision of the Code, including some of the suggestions provided by stakeholders. However the Panel was mindful of the need to progress change expeditiously and took the view that the Code should be revised in two stages.

The aim of this first stage is to address what are perceived to be the most pressing problems with the Code as discussed by Gunning and others, while the second stage is to address more complex issues that in the opinion of the Panel and the Board will require further analysis and consultation with the industry. Further changes to the Code may also be required should any amendments be made to the Act. These can be incorporated into the second stage of the process.

6. FINANCIAL COMPLIANCE PROGRAM

Ongoing Activities

The Board has focussed on a number of ongoing activities aimed at ensuring compliance with the financial requirements of the Act:

- monitoring of audit reports of finance brokers and promotion of best practice in auditing of finance brokers' trust accounts;
- investigation of all qualified audit reports;
- monitoring of compliance with bond or bank guarantee requirements;
- monitoring of compliance with financial conditions placed on licences and business certificates;
- appointment of auditors to conduct special audits of trust accounts as necessary; and
- application of sanctions as appropriate.

Audit Program

In accordance with Part IV of the *Finance Brokers Control Act 1975*, all finance brokers and finance broking entities with current business certificates were required to provide a trust account audit for the year ended 31 December 2000.

The only annual exceptions to this requirement are finance brokers who did not receive or hold monies on behalf of any other person in the trust account during the past year. In these situations section 66 of the Act provides that the broker may provide to the Board a statutory declaration to that effect. Whilst the statutory declaration is sufficient for the broker to be deemed retrospectively in compliance with the audit requirements of the Act the Board is currently considering making it a requirement that an auditor affirm in writing the declaration of a nil balance in a trust account¹³.

There were 26 audit reports and 115 statutory declarations received from finance brokers for the period ending 31 December 2001. Five of the audit reports were qualified and have been referred for investigation. One additional matter was referred for prompt investigation following examination of the audit report.

¹³ In the Board's view provision of such a statutory declaration does not absolve the broker from the requirement to maintain a trust account so that it is available for holding any monies which may be received and are required to be held in trust during the ensuing period.

The Board became aware that audit reports received on behalf of finance brokers were not providing sufficient information to identify all potential problems in the maintenance of trust accounts. In January 2001 the Board issued instructions to auditors to provide further information in respect of trust accounts. The additional information, which included details of customer balances in trust accounts and copies of management letters, where issued, enabled the Board to better assess whether the trust accounts were being properly administered in compliance with the requirements of the *Finance Brokers Control Act 1975*.

Bonds/Bank Guarantees

The Board is continuing to enhance its ongoing program of reviewing bonds and bank guarantees of finance brokers who hold current business certificates, in order to ensure that they remain current and compliant. This has been done by increasing the staff numbers attending to the program.

The Board has also implemented a program enabling a finance broking entity which holds a restricted business certificate to make application for a reduced bond or bank guarantee from the current required amount of \$50,000 to \$5,000 or such other amount as may be approved. Approvals are considered on a case by case basis following detailed application from the finance broker. Before any approval is given the Board imposes additional conditions and requirements, which includes the finance broker having in place a current Public Indemnity Insurance policy with a minimum coverage of \$1,000,000.

Special Audits

The Board approved three special audits during the year in respect to:

- Knightsbridge Finance;
- Blackburne and Dixon; and
- Leon K Jamieson and Associates.

Two of the three audits have now been finalised, with the remaining audit in the process of being prepared.

Inquiries about Financial Compliance

On application of one of its Inspectors, the Board approved an Inquiry (matter 4 of 2000) into Graeme Perry and Mortgage Facilities Pty Ltd (formerly First Charter Mortgage Services Pty Ltd). The Inquiry relates to an alleged failure to submit to the Board a trust account audit and is currently adjourned *sine die* pending criminal related matters to be heard in the District Court.

Mr Perry has been banned for life from the industry by ASIC. He also recently surrendered his state finance broker's licence. The Board has accepted an undertaking that Mr Perry will not act as a finance broker nor re-apply for a licence until the Board's Inquiry is finalised.

Developmental Activities

The Board identified the following areas as priorities for review and development:

- development of a comprehensive financial compliance strategy;
- establishment of an Audit Panel of the Board to oversee the financial compliance program related to audits requirements;
- development and promotion of Guidelines for Auditors of Finance Brokers;
- production of a financial compliance section in the Compliance Procedures Manual and implementation of staff training; and
- development of a finance broking fidelity fund.

These priority areas address concerns of the Select Committee into the Finance Broking Industry in Western Australia in relation to the Board's application of its duties regarding trust accounts¹⁴.

Compliance Strategy

To meet its objects the Board has overseen programs designed to ensure industry compliance with:

- the financial and audit requirements of the Finance Brokers Control Act 1975;
- financial and audit conditions placed on licences or business certificates pursuant to section 34 of the Act.

The financial compliance program includes both reactive and proactive elements and is based on activities similar to those described for the general compliance program. Prioritisation of matter for action is based, to some extent, on whether the broker involved holds a Business Certificate that restricts broking activities to dealing with licensed credit providers. However, the Board has sought to ensure that all matters related to financial compliance are followed up and reported on.

Audit Panel

The success of the Complaints Panel established by the Board led to consideration of forming a similar Panel to oversee the program related to ensuring that the audit requirements of the Act are met. An Audit Panel was established comprising a member of the Board with experience in commercial practice, the Registrar and other relevant officers of the Board. In addition, the Principal Financial Compliance Officer supporting the Real Estate and Business Agents Supervisory Board was co-opted as a member of the Panel.

The key objectives of the Audit Panel are to ensure that:

¹⁴ Report of the Select Committee into the Finance Broking Industry in Western Australia, 7 December 2000, page 68.

- licensees comply with the financial requirements of the Act, the Code of Conduct and any conditions placed on licences;
- finance brokers maintain trust accounts and have trust accounts audited in accordance with appropriate standards;
- licensees provide audit reports which meet all requirements of the Board, are received on time;
- areas of concern are effectively investigated; and
- appropriate action is taken in relation to any finance brokers who fail to comply with the requirements of the Act, the Code or conditions on their licences.

Guidelines for Auditors of Finance Brokers

In line with other initiatives to ensure a high standard of financial compliance, guidelines for auditors of finance brokers are currently being developed. The intent of these guidelines is to ensure all audit reports meet a minimum standard and that auditors are aware of any compliance issues. The guidelines will be finalised and promoted to the industry during 2001-2002.

More Frequent Audits

The *Finance Brokers Control Act 1975* requires all licensed finance brokers that hold a business certificate to have their trust accounts audited each year. In its report on the Finance Brokers Supervisory Board, the Gunning Committee cited instances in which more timely audits may have been of assistance in identifying problems with particular brokers¹⁵.

At a meeting held in September 2000 the Board resolved that, effective immediately, a condition would be placed on each new or renewed unrestricted Business Certificate that the broker provide an audit report every six months. Licensees are required to have their trust accounts audited by a registered company auditor on the 30th June and 31st December of each year that their business certificate remains current, and must provide the audit report to the Board. The requirement is gradually being phased in over a three year period as business certificates are renewed.

¹⁵ *Report of the Gunning Committee of Inquiry into the Finance Brokers Supervisory Board*, 1 September 2001, pages 280 – 282.

Referral of Auditors to Professional Bodies

During the year the Board received an investigation report which indicated that the audit of a trust account did not meet the minimum standard prescribed by the Act. In addition, it was of the opinion that the audit did not meet the minimum professional standard.

The Board resolved to refer the report to the Institute of Chartered Accountants in Australia and the Company Auditors Licensing and Disciplinary Board of the Australian Securities and Investments Commission.

Compulsory Professional Indemnity Insurance

The Board has been mindful of the potential risk of misappropriation of funds held in trust by finance brokers. To increase the available safeguards, the Board has been introducing professional indemnity insurance for finance brokers who operate under unrestricted Business Certificates. These brokers handle mortgage arrangements with private investors' funds.

On the 20 September 2000 the Board adopted the policy that licensed finance brokers be required to effect and maintain professional indemnity insurance with a registered/licensed insurer in respect of the claims against the licensee to a minimum amount of \$1 million, during the currency of the Business Certificate. This policy is applicable to those finance brokers holding unrestricted licenses. The policy was implemented by including on new or renewed Business Certificates a special condition pursuant to section 32(2) of the *Finance Brokers Control Act 1975* that finance brokers hold indemnity insurance in a specified amount.

Professional indemnity insurance of \$1 million has also be included as a condition on the Business Certificates of those brokers holding restricted licenses who have lodged with the Board a reduced bond/guarantee in the amount of \$5,000.

The Board is aware that the requirement to hold professional indemnity insurance does not address the problem of risk of fraud or dishonesty by the brokers in *bona fide* control. As such, the requirement that brokers lodge with the Board a bond or guarantee in the amount of \$50,000 has been maintained for those operating under unrestricted Business Certificates and the Board is currently considering initiating the establishment of a fidelity fund in relation to the finance broking industry.

7. Community Information

Ongoing Activities

A number of ongoing activities have been initiated to increase community and industry awareness:

- increase awareness of industry members through publications and face to face meetings
- maintain a complete source of information on the Board's Website
- undertake various community awareness and education programs

Newsletter

In line with the recommendations of the Gunning Inquiry, the Board has resumed publication of a newsletter. The first edition of the newsletter, *Finance Broking*, was published in March 2001 and the second edition was published in June 2001. The newsletter aims to keep both the industry and investors informed about finance broking issues, including the activities of the Board and matters related to regulation of the industry.

The newsletter has been widely distributed. More than 2,000 copies of the first edition were mailed to all licensed finance brokers as well as industry groups, seniors organisations and community groups.

Website

In April 2001 the Board launched its new website. The website was developed to complement the newsletter and contains more detailed information about the Board's role and its activities. It also provides general information on finance broking issues and serves as a reference for investors, borrowers and finance brokers in Western Australia.

The website also provides a service to the industry by providing various forms which can be printed and used to make applications to the Board. Some of the other features of the website include licensing information for finance brokers including educational requirements, access to relevant statutory regulations, tips for investors, frequently asked questions and links to other relevant sites.

8. Other

The Gunning Committee of Inquiry into Fair Trading Boards and Committees

Terms of Reference

On 8 February 2000 the former Minister for Fair Trading announced the appointment of the Gunning Committee of Inquiry into Fair Trading Boards and Committees. The Committee comprised Judge Ivan Russell Gunning (retired), Mr Digby Graham Blight and Dr Diana Newman.

The Inquiry reviewed and reported on the effectiveness and efficiency of the functions, power, structure, procedures, resourcing and operational costs of the seven boards and one committee. The Committee provided its report on the Finance Brokers Supervisory Board to the former Premier on 1 September 2000. The Committee went on to examine seven other Boards and Committees in the Fair Trading portfolio and released its final report on 15 December 2000.

Reports and Recommendations

In essence the Gunning Committee found that several finance brokers, property developers and land valuers had brought about considerable losses to investors through deficient, if not negligent, business practices. A total of 28 changes to the legislation governing the finance broking industry and to the policies and procedures of the Finance Brokers Supervisory Board and Consumer Protection Division were recommended and subsequently endorsed, in principle, by the Cabinet of the day. Most of the recommendations have been or are on their way to being implemented, or are the subject of active consideration and legal advice. However, those recommendations requiring legislative change have been delayed pending the outcome of the Temby Royal Commission of inquiry into the finance broking industry.

Recommendations of the Gunning Committee underpinned a number of initiatives of the Finance Brokers Supervisory Board which are discussed elsewhere in this Report. Notably, the Gunning Report pointed the way towards formation of a Complaints Panel, and led to establishment of four other Panels of the Board. Drafting of an operating agreement with the then Ministry of Fair Trading and development of a compliance strategy for regulation of the finance broking industry also were based on recommendations of the Gunning Inquiry. The revised Code of Conduct for finance brokers also incorporates various changes recommended by the Gunning Committee.

Legislative Council Select Committee of Inquiry into Finance Broking

Terms of Reference

Following debate on 21 June 2000 in the Legislative Council that the terms of reference of the Gunning Inquiry were too narrow, and that a more wide-ranging inquiry was required, it was determined that a Select Committee to inquire into the finance broking industry be established.

The Committee was appointed to inquire into the reasons for losses associated with the finance broking industry, including but not limited to the statutory responsibilities relating to the finance broking industry and avenues for legal redress for investors. The Committee also was requested to consider the adequacy of existing legislation to prevent the recurrence of events, which led to the losses by investors who relied on finance brokers.

Fifty-three witnesses gave evidence to the Select Committee. Witnesses included former members of the Finance Brokers Supervisory Board and officers of the Board.

Report and Recommendations

The Report of the Select Committee, released on 7 December 2000, was critical of the actions of finance brokers, borrowers, valuers, lawyers, auditors and their associates involved in the failed investments that have occurred in the industry. The report also criticised the then Board and the Ministry of Fair Trading in relation to the administration of the *Finance Brokers Control Act 1975*.

The Select Committee made 10 recommendations of which five have direct relevance to the operation of the Board. These recommendations relate to:

- rigorous application of the educational requirements for licensing of finance brokers;
- providing education and information for the community;
- establishing of a Memorandum of Understanding with ASIC;
- clarifying the role of any supervisor appointed pursuant to the *Finance Brokers Control Act 1975* and the relationship between such supervisors and the Board; and
- making the register of licensed finance brokers readily accessible to the public.

Progress in implementing each of these recommendations is described elsewhere in this report.

Temby Royal Commission of Inquiry into the Finance Brokers Supervisory Board

Appointment of the Commission

In a media statement dated 24 April 2001 the Premier announced the appointment of Mr Ian Temby QC to conduct a Royal Commission into Western Australia's finance broking industry. He also announced that State Cabinet had approved a two-stage process for the appointment of the Royal Commission.

The first stage of the process required the (then) Ministry of Fair Trading to provide a list of development projects from which the Royal Commissioner could select a number of projects to become the focus of the Royal Commission. A list of approximately 90 development projects, which illustrate the problems experienced by investors, was prepared by the Finance and Valuation Industries Branch. In order to ensure that a broadly representative list was compiled several sources have been used:

- information about complaints made to the Finance Brokers Supervisory Board;
- suggestions canvassed from the Director of the Mortgage Information Service of the Public Trust Office;
- suggestions canvassed from the Supervisors of Global Finance, Grubb Finance and Knightsbridge Finance; and
- a list of projects provided by the Principal Policy Officer to the Attorney General.

The Commission's investigators reviewed complaint files and other materials about the projects in order to gather sufficient information about each of the development projects for the first stage of the appointment process. Seventeen projects eventually were selected and listed in the Terms of Reference.

Terms of Reference

The Terms of Reference of the Commission were announced on 8 June 2001. They require the Commission "to inquire into and report on whether there have been unlawful or improper activities or practices relating to the finance broking industry in Western Australia, since 1 January 1994, as evidenced by the conduct of finance brokers, borrowers and those who provided services to them and to lenders, including but not limited to advisers, accountants, auditors, bankers, lawyers and valuers." (paragraph 1)

The Terms of Reference also require the Commission to undertake the inquiry with particular reference to the matters known as or relating to 17 development projects (paragraph 2).

In addition, the Royal Commission is required to report as to whether the conduct of the relevant State regulatory authorities was, in relation to all of the above, adequate in all of the circumstances (paragraph 3). The relevant State regulatory authorities include the Finance Brokers Supervisory Board.

The Terms of Reference require the Commission to report by 21 December 2001. The Royal Commission opened on 20 June 2001. The opening address by Counsel assisting the Commission indicated that hearings initially would concentrate on practices within the industry. Hearings in relation to the State authorities were planned to take place during the second half of the Commission's life.¹⁶

Legal Representation for the Boards and the Consumer Protection Division

Given the nature of the Terms of Reference, particularly paragraph 3, the Finance Brokers Supervisory Board was of the view that it should be represented before the Temby Royal Commission. The conduct of each agency would be examined by the Royal Commission and an assessment made as to the adequacy of that conduct in the circumstances.

State Cabinet endorsed representation of the State regulatory authorities before the Royal Commission. Mr Richard Hooker, a Barrister at the Independent Bar, was briefed to represent the Board.

A small team is being established in the Finance and Valuation Industries Branch to respond to the operation of the Royal Commission on behalf of the Division and the Boards. This team also will provide briefing material to the Board.

Focus of the First Hearings

The Royal Commission began hearing evidence on 25 June 2001. The first projects to be investigated were *Westonbirt Park* in Bridgetown and *7 Cessnock Way* in Rockingham. During the first days of hearings the focus was on the industry participants in the project, particularly the valuers and financial advisers related to the projects.¹⁷

¹⁶ Hearings in relation to the State regulatory authorities were scheduled for November 2001.

¹⁷ By early October 2001 the Royal Commission had heard evidence regarding 15 of the 17 development projects.

Civil Action against the Finance Brokers Supervisory Board

Orders for Pre-Action Discovery

On 7 March 2001 a Master of the Supreme Court issued orders for pre-action discovery in respect of Van Stokkum -v- the Finance Brokers Supervisory Board CIV 2704 of 2000. The orders allowed pre-action discovery in relation to files and documents about finance broker Blackburne and Dixon Pty Ltd only. Subsequently, the Finance Brokers Supervisory Board agreed to Consent Orders for discovery of documents by nine additional plaintiffs in relation to a further nine finance brokers.

The plaintiffs sought orders which would require the Finance Brokers Supervisory Board to provide discovery of all files and documents, relevant to the 10 finance brokers, in its possession, custody or control relating to:

- all complaints received by the Board or its officers;
- all other information received by the Board or its officers which shows fraud, theft, default, breach of trust, breach of the *Finance Brokers Control Act 1975* or the Code of Conduct for finance brokers, or improper conduct by any of the brokers;
- any investigation conducted by the Board or its officers; and
- any other information available to the Board or its officers concerning any of the brokers which shows fraud, theft, default, breach of trust, breach of the *Finance Brokers Control Act 1975* or the Code of Conduct for finance brokers, or improper conduct by any of the brokers.

Administration of the Discovery by the then Ministry of Fair Trading

It is likely that the discovery action will involve documents on approximately 550 files and thousands of documents. As such the Board requested that the Ministry of Fair Trading, through its officers, conduct administration of the discovery on its behalf. Agreement was reached that administration of the discovery would be conducted by a Special Projects Team in the then Ministry. Identification and preparation of discoverable documents began in April 2001 and was continuing as at 30 June 2001.

Restrictions on Documents to be Discovered

There are three specific restrictions on documents and files which are to be subject to discovery: legal professional privilege and crown privilege being claimed by the Attorney General, and the secrecy provisions in section 88 of the *Finance Brokers Control Act 1975*. In addition, there may be other documents on the files which are not discoverable, such as the transcripts of hearings which were held *in camera*. Further, the impact of discovery of certain documents on any current Inquiries before the Board or current investigations by the Police Service must be considered.

Review of the Finance Brokers Control Act 1975

The previous State Government formed a Reference Group to review legislation regulating the finance broking industry. The Reference Group submitted its final report in December 1998 which was subsequently endorsed by Cabinet.

A draft *Finance Brokers Control Act Amendment Bill* intended to implement many of the recommendations of the Gunning Committee in relation to finance brokers was submitted to Cabinet during 2000. In addition the Bill proposes a number of additional changes, not mentioned in the initial Gunning recommendations. The Amendment Bill did not proceed, initially pending the final report of the Gunning Committee, and later pending the findings of the Temby Royal Commission.

Assisting Investors to Address Taxation Issues

During the latter part of the year the Board initiated discussions with the Australian Taxation Officer (ATO) seeking clarification of the taxation implications for investors affected by failed mortgage investment. The Board was concerned that many investors may not be aware of the taxation implications relating to the interest on their investments, and any losses of capital arising from failed investments.

The ATO was receptive to approaches from the Board in relation to assisting investors to clarify their individual taxation positions. The ATO also indicated that it would examine whether it would be appropriate to develop a specific Class Ruling in relation to investors who have common investment characteristics. After being approached by the Board, the ATO established a taskforce to focus on finance broking tax issues.¹⁸

¹⁸ Further progress was made subsequent to 30 June 2001. A committee was established with representatives of the Board, the Mortgage Information Service of the Public Trust Office, the Australian Taxation Office, Centrelink and the Australian Securities and Investments Commission. Under the auspices of the joint Commonwealth/State committee two information pamphlets for investors were published and distributed and further steps were taken in relation to the Class Ruling.

APPENDICES

Appendix A: List of Finance Brokers Supervisory Board Meetings, July 1, 2000 to June 30, 2001

12 July 2000 8.30	24 January 2001 (1 of 2001)
12 July 2000 4.15	25 January 2001 (2 of 2001)
19 July 2000	
	14 February 2001 (3 of 2001)
9 August 2000	15 February 2001 (4 of 2001)
22 August 2000	27 February 2001 (5 of 2001)
13 September 2000	22 March 2001 (6 of 2001)
20 September 2000	
	24 April 2001 (7 of 2001)
11 October 2000 (18 of 2000) ¹⁹	
19 October 2000 (19 of 2000)	17 May 2001 (8 of 2001)
8 November 2000 (20 of 2000)	20 June 2001 (9 of 2001)
5 December 2000 (21 of 2000)	
13 December 2001 (22 of 2000)	
22 December 2000 (23 of 2000)	

¹⁹ Numbering of meetings and resolutions began in November 2000

Appendix B: Inquiries before the Board

Inquiries Completed during 2000-2001

<i>Number</i>	<i>Respondent(s)</i>	<i>Alleged Breaches</i>	<i>Outcome</i>
1/2000	Mr Peter Fermanis	Alleged Breach of Article 6 of the Code of Conduct (1991) ²⁰ - demanding charge for services other than those laid down in the Scale of Fees established under the Act without the prior written consent of client.	On 31 November 2000, the Board ordered that Mr Fermanis' licence and business certificate be suspended for a period of two years, effective from 8 February 2001. During this three-month period the Board also imposed on Mr Fermanis a restriction that he will be limited to dealing with licensed credit providers or persons exempt from the licensing requirement of the Credit Administration Act. Mr Fermanis is not to solicit funds from any private lender.
5/2000	Mr Peter Fermanis	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p> <p>Alleged breach of Article 16 of Code of Conduct (1991) - failure to obtain a statement signed by lenders containing particulars of mortgage.</p>	On 9 March 2001, the Board ordered that Mr Fermanis be fined \$1,000; be permanently disqualified from holding a finance broker's Licence and Business Certificate; and pay costs of the Inquiry of \$3,790.

²⁰ **Note:** References to the Code of Conduct (1991) indicate that the alleged breach occurred prior to enactment of the current Code of Conduct.

<i>Number</i>	<i>Respondent(s)</i>	<i>Alleged Breaches</i>	<i>Outcome</i>
13/2000	Blackburne & Dixon Pty Ltd & Ms Kaye Blackburne	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p>	At a hearing held on 10 April 2001, the Board disqualified Ms Blackburne & her finance broking company from holding a licence until further order of the Board.
14/2000	Leon K Jamieson & Associates	Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.	At a hearing on 7 June 2001, Mr Jamieson upon certain admissions, consented to a permanent disqualification of his licence, and the Board so ordered.
2/2001	Mr Aaron Basten	Alleged breach of Article 2.6(a) of the Code of Conduct (2000) - the broker must not knowingly or negligently mislead or deceive any party.	On the 22 March 2001, Mr Basten pleaded liability. The Board reprimanded Mr Basten in the strongest terms and fined him \$1,000.

Inquiries Pending as at 30 June 2001

<i>Number</i>	<i>Respondent(s)</i>	<i>Alleged Breach</i>	<i>Progress to 30 June 2001</i>
2/2000	Gamel Ward Pty Ltd	Alleged breach of Article 16 of Code of Conduct (1991) - failure to obtain a statement signed by lenders containing particulars of the mortgage.	At the hearing on 10 May 2001, the Board agreed to adjourn the matter to a further date to be set. Allegations denied, proceedings still to be heard and determined.
8/2000	Mr Oliver Douglas	Alleged breach of Sections 26(1) & 34(3) of the Act - conducting business without a current business certificate and failure to adhere to conditions of licence. Alleged breach of Section 48 of Act - failure to record receipt of funds in trust account. Alleged breach of Article 14 of Code of Conduct (1991) - failure to provide lenders with a written statement setting out particulars of the mortgage. Alleged breach of Article 16 of Code of Conduct (1991) - failure to obtain a statement signed by lenders containing particulars of the mortgage.	At a hearing on 31 May 2001, the Board agreed to adjourn the matter to a date to be set. Allegations denied, proceedings still to be heard and determined.
9/2000	Knightsbridge Finance Pty Ltd & Mr Kim Clifton	Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit. Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts. Alleged breach of Article 16 of Code of Conduct (1991) - failure to obtain a statement signed by lenders containing particulars of the mortgage.	Hearing for mention held 13 December 2000. Allegations denied, proceedings still to be heard and determined.

<i>Number</i>	<i>Respondent(s)</i>	<i>Alleged Breach</i>	<i>Progress to 30 June 2001</i>
10/2000	Gamel Ward Pty Ltd	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not Acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p>	<p>At the hearing on 10 May 2001, the Board agreed to adjourn the matter to a further date to be set.</p> <p>Allegations denied, proceedings still to be heard and determined.</p>
12/2000	Knightsbridge Finance Pty Ltd & Mr Kim Clifton	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not Acting at all times in the interests of clients and thereby placing them at a disadvantage for own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p>	<p>At the hearing on 29 March 2001, the Board agreed to adjourn the matter to a further date to be set.</p> <p>Allegations denied, proceedings still to be heard and determined.</p>
1/2001	Knightsbridge Finance Pty Ltd & Mr Kim Clifton	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p>	<p>Application approved 24 January 2001.</p> <p>Hearing for mention held 14 February 2001.</p> <p>Allegations denied, proceedings still to be heard and determined.</p>

Inquiries Adjourned pending the Outcome of other Civil or Criminal Proceedings as at 30 June 2001

<i>Number</i>	<i>Respondents</i>	<i>Alleged Breach</i>	<i>Progress to 30 June 2001</i>
3/2000	Mr Graeme Perry & First Charter Mortgage Services	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p>	<p>So as not to prejudice a fair hearing in respect of criminal charges laid by the Police, at a hearing on 3 May 2001 the Board accepted an application to adjourn the Inquiry pending the outcome of those proceedings. However, the Board noted that ASIC has banned Mr Perry for life from the industry; and Mr Perry has also surrendered his State finance broker's licence. Therefore the Board made its ruling on the basis of an undertaking that Mr Perry will not act as a finance broker nor re-apply for a licence until the Board's Inquiry is finalised.</p> <p>Allegations denied, proceedings still to be heard and determined.</p>
4/2000	Mr Graeme Perry & First Charter Mortgage Services	<p>Alleged breach of Section 50(1) of Act - failure to cause trust accounts to be audited by statutory appointed auditor.</p> <p>Alleged breach of Article 5.2 of the Code of Conduct (1991) - failure to take reasonable steps to comply with the auditors request for further documents necessary to complete the audit report.</p>	<p>As for 3/2000 above.</p> <p>Allegations denied, proceedings still to be heard and determined.</p>

<i>Number</i>	<i>Respondents</i>	<i>Alleged Breach</i>	<i>Progress to 30 June 2001</i>
11/2000	MFA Finance Pty Ltd & Mr Herbert Ross Fisher	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p>	<p>So as not to prejudice a fair hearing in respect of criminal charges laid by the Police, at a hearing on 24 May 2001 the Board accepted an application to adjourn the Inquiry pending the outcome of those proceedings. The Board noted that although Mr Fisher holds a finance broker's licence, he no longer has a Business Certificate and therefore cannot carry on business as a finance broker. The Board will, however, make application to the District Court for an enforceable undertaking that Mr Fisher will not carry on business as a finance broker in any capacity. The lawyer representing Mr Fisher indicated that such an application would not be opposed.</p> <p>Allegations denied, proceedings still to be heard and determined.</p>

Inquiries with which the Board did not Proceed

<i>Number</i>	<i>Respondent(s)</i>	<i>Alleged Breach</i>	<i>Progress to 30 June 2001</i>
6/2000	Mr Peter Fermanis	<p>Alleged breach of Article 4 of Code of Conduct (1991) - not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.</p> <p>Alleged breach of Article 7 of Code of Conduct (1991) - failure to take all reasonable precautions to protect its clients against fraud, misrepresentation, and other unethical practice and to ascertain and communicate to them all available relevant facts.</p> <p>Alleged breach of Article 16 of Code of Conduct (1991) - failure to obtain a statement signed by lenders containing particulars of the mortgage.</p>	<p>Hearing for mention on 8 November 2000.</p> <p>Given the outcome of Inquiry 5/2000 in which Mr Fermanis was permanent disqualified from holding a finance broker's licence, this Inquiry was not pursued by the Board at this time.</p>
7/2000	Mr Peter Fermanis	<p>Alleged breach of Article 15 of Code of Conduct (1991) - harsh and unconscionable conduct.</p> <p>Alleged breach of Article 16 of Code of Conduct (1991) - failure to obtain a statement signed by lenders containing particulars of the mortgage.</p>	<p>Hearing for mention on 13 December 2000.</p> <p>Given the outcome of Inquiry 5/2000 in which Mr Fermanis was permanent disqualified from holding a finance broker's licence, this Inquiry was not pursued by the Board at this time.</p>
15 to 22 /2000	Leon K Jamieson & Associates	Alleged breach of Article 4 of Code of Conduct (1991)- -not acting at all times in the interests of clients and thereby placing them at a disadvantage for the broker's own benefit.	Given the outcome of Inquiry 14/2000 in which Mr Jamieson upon certain admission, consented to be permanently disqualified from holding a finance broker's licence, and the Board so ordered, these Inquiries were not pursued by the Board at this time.