

# the Investors' Voice

Newsletter of the Australian Investors Association – *Investors helping investors*

September

2012

## Features

- Assessing portfolio allocation strategies – What's the best way to make the most of your money? **1 & 3**
- Investing for income **4**
- Indications of a cyclical market low **5**
- Sheltering in Bornstein's 'perfect storm' – excess contributions tax crisis averted **6**
- The case for direct US shares **7**
- The Australian Dollar – Where to Now? **8**
- Exciting times for Magnetic **10**

## Regulars

- President's message **2**
- Book review **9**
- Calendar of events **12**

## Assessing portfolio allocation strategies – What's the best way to make the most of your money?

By Dr Stephen J Nash *Director, Strategy and Market Development at Fixed Income Investment Group (FIIG)*



Most investors aim to maximise return. Actively switching, between equities and bonds, is one way to achieve this if it generates both higher return and lower risk. This article examines this theory and concludes that active switching can enhance return and trim risk. As an extreme

example we start by assessing switching between 100% equities and 100% bonds, even though this is not realistic.

When more realistic allocations are tested, the benefits of active switching fall, and the conclusions are much the same as in the case of high equity allocation, where investors can pursue extra return, however they effectively have to double risk, meaning that the 75% bond 25% equity allocation remains very hard to beat, when risk is taken into account. In other words, investors should reduce the effort involved in asset switching and utilise the 75% bond 25% equity model, focusing instead on maximising returns in the individual asset classes (1).

### Basic assumptions of the model

Let us explain the underlying rationale for a simple switching model. Tactical Asset Allocation (TAA) is a favourite subject of many asset managers, and there may be some evidence to support the benefits of TAA. In this article we present a simple model of asset class switching. Specifically, a basic assumption of this model is that equity returns are auto-correlated. Before you run for hills, the term "auto-correlation" explains a very basic idea. Essentially, it means that each observation is related to the prior, in the sense that if equities are going up in price, they tend to do that price appreciation in a series of increases, which many have termed a "bull" market. Similar behaviour occurs when prices go down, or in "bear" markets. All this occurs because the market is anticipating information, and it tends to anticipate information in one way, or another. Markets move in packs, and the individual assessments of many become expressed in the gradual anticipation of data, in markets moving continuously up, or continuously

down. If markets were not auto-correlated, then trends in equity markets would not occur. Yet, as we observe, in the Figure 1 below, markets do trend.

Notice in particular, that the actual index performance tends to be very directional, staying away from the 200 day moving average most times.

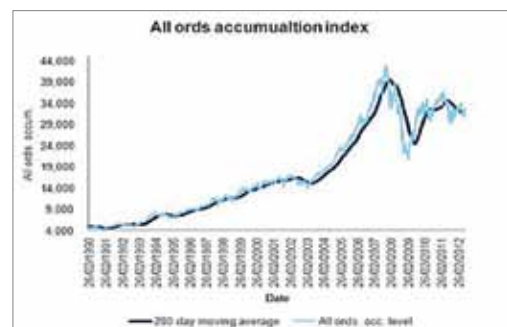


Figure 1. All Ords Accumulation Index  
Source: FIIG Securities, Bloomberg, ASX

### Explanation of the basic model

Here is a brief overview of the model:

- First, we use the market accepted benchmark of the 200 day moving average on the Australian All Ord (Acc.) index, and we develop a switching model that goes long and short equities;
- Second, when the model is negative on equities, as indicated by a negative 1, we select bonds, and use the daily performance of the composite bond index; and,
- the overlay does badly when the market bunches around the 200 day moving average, as is the case now

Signals for the model are described in Figure 2 on a next page, and where the left hand axis has a positive 1, the model prefers equities, and where the signal is negative 1, then the model prefers bonds. Note how the model gives stable readings in stable "bull" markets, and not that well when the markets are not decisive, and fail to trend away from the 200 day moving average.

Continued on page 3

# President's message

By Bill Shirley



The 2012 AIA National Conference is now been completed, I hope all attendees have safely returned to their respective home bases. Now armed with much information learned at the meeting, members can now beneficially put that into effect in relation to their individual investment strategies over the coming months.

At the conference, we covered a wide range of investment topics and these activities are now

being reviewed using the attendee's responses via the yellow feedback forms that we now have on hand.

Our review of this attendee input to date has made us aware of a number of interesting matters that members indicated they would like to see some repositioning in the future. These areas are as follows:

- A wider sector spread including more detailed overviews.
- More speakers on economic updates.
- More presentations on SMSF matters.
- More speakers on interest rates & bonds.
- Allow more time for informal networking activities.
- Re-introduce investment software seminar & demos.
- If possible maintain the three stream structure.

Your AIA board has already started considering these suggestions and is reviewing our 2013 conference with a view to which suggestions could be sensibly integrated into our planned program as well as considering their financial viability. These suggestions will clearly enable us to further enhance future conferences.

Some other data that has been sourced from the attendees input is the state attendee mix. As some of you may be interested, the main States were Qld 32%, NSW 25%, Vic 19%, and WA 9%. We also became an International Conference with one member from NZ.

We have also learnt that our skills mix is on the improve, our scores have been tabulated along these lines: Expert 7%, Advanced 30%, Intermediate 45%, and the Beginner area was 18%.

In closing on the "friendly" Conference 2012 matters I would like to offer a very large thanks to a number of people in the following areas: the "bag stuffers" and the bag "handers-outers" on the Sunday, all the people who assisted at the front desk during the event and our IT volunteers who processed all mail and layout needs for the meeting. We cannot forget our two staff members, as well the other temporary member from Melbourne, plus our five members who were also speakers.

I believe one can only say "Well Done".

Our birthday – It is a great pleasure to advise you that the AIA has come of age, as we turn 21 this year, a tremendous achievement. We have also identified 26 current members who have been with us since that first year, another tremendous achievement – we will honour these members in various ways during the remainder of the year – and a "Thank You" from the board.

Some other matters:

Member Benefits, we are currently reviewing the various existing and new offers that we have to enable us to issue a new members package. You should receive a members update email in the coming weeks advising you of the revised offers.

Webinar's, we plan to start running this member service in the later part of the year, we will you know the dates in the near future.

Expo in Melbourne early Oct 12 – For those of you who live in Melbourne please don't forget the Melbourne Investment Expo, due for the first Friday & Saturday in October. We would some volunteers to staff our stand, if you can't assist with stand duties, and are still attending please drop in and say "Hello".

In closing I hope your income streams are performing well during this dividend, and reporting cycle period. Also, please don't forget the franking component in your future income investment planning.

## Landlords or Tenants - Who pays for water charges?

Corina Bailey *Landlord Specialists*



A landlord can pass water charges onto their tenants provided the premises are water efficient. A property being water efficient is not required by law but until such devices are installed a Landlord cannot charge for water.

The landlord is responsible for the cost of making the premises water efficient and this applies to toilets, showerheads and to internal cold water taps for the bathroom hand basin and for the kitchen sink.

The requirements do not apply to other taps such as bathtub taps, laundry taps, outside taps for the garden, or taps for washing machines and dishwashers.

Internal cold water taps, kitchen sink taps, bathroom hand basin taps and showerheads must have a maximum flow of 9 litres per minute.

Toilets must have a dual flush function installed not exceeding 6.5 litres on full flush and 3.5 litres on half flush with a maximum average flush volume of 4 litres (based on the average of one full flush and four half flushes).

Landlords are responsible for ensuring there are no leaking taps anywhere on the premise at the start of a tenancy or when the water efficiency measures are installed. A Landlord can install the water efficiency measures themselves or use a licensed plumber.

It is not necessary to provide a report from a plumber or have a water supply authority certifying the property is water efficient however it is a good idea to keep records, copies of invoices or notes of work done, receipts, packaging, warranties or manuals. Also be sure to note the presence of the water efficiency measure on the ingoing entry condition report for the premise.

Should your tenant offer to pay for water charges preferring not to have the water efficient devices installed, under the tenancy laws a Landlord cannot pass on water charges to their tenant unless the property has the required water efficiency measures in place. It may help you to discuss the water efficiency requirements with your tenant and highlight the water and energy savings they will benefit from. There are many different types of flow restrictors you can install on your showerheads so the quality of the water flow is not reduced.

Some local councils and water authorities offer rebates or other assistance to people who install devices which save on water and energy consumption and assist the environment. Some local council's run free showerhead exchange days and distribute Do-It-Yourself Water saving kits which include flow regulators and tap aerators. Contact your local council or water authority to inquire about assistance available in your area.

## Assessing portfolio allocation strategies – What's the best way to make the most of your money? ... from page 1

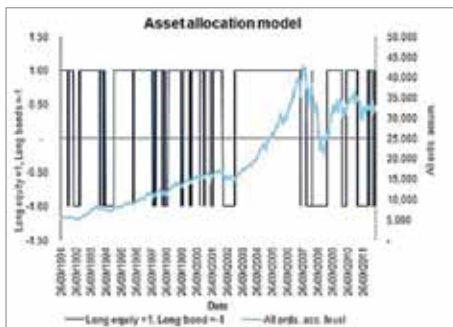


Figure 2. Asset allocation model  
Source: FIG Securities, Bloomberg, ASX

### Extreme

All you extremists out there...get ready.

We explore if you can beat the returns on any allocation by either being 100% long equities, or long 100% bonds. While such an allocation is untenable to most investors, such an extreme allocation is used to explore the potential risk and return in such a hypothetical case. As Table 1 indicates, we generate a trading model that goes long equities when the annualised actual return is above the 200 day moving average of twelve month returns, and long bonds when the opposite is the case. Roughly, this approach is long equities 70% of the time, and long bonds 30% of the time, if you add all the separate long days and short days up, and compare these to the total data set.

In Table 1 below, we compare the results of the above model, to just being long equities. Before trading costs the returns using the model are 12.27%, yet after trading costs the returns are 11.07%, with annual risk of 9.92%. Compare that to the long equity position, where we get less annual return, of 9.40%, and much higher risk, of 14.82%.

Strategy	Annual return	Annual risk
Long equities 100%	9.40%	14.82%
Long equities/long bonds (using model)	12.27%	9.92%
Trading costs (20 bpa per year, 6 trades a year)	1.20%	
Net	11.07%	9.92%

Table 1

Despite the results, there is one very large problem with this approach; asset diversity. Having 100% equities, or 100% bonds, in any investment portfolio is not a tenable position, as the benefits of asset diversification, where the negative correlation of return between bonds and equities cuts investment risk, is completely absent at all times.

### Static results

Now, we can compare this extreme switching to a static allocation, where the allocation remains unchanged throughout the complete data set. If an investor allocates 75% to equities, and 25% to bonds (where in reality the equity allocation is much higher than the results summarised in Table 2 below), where return comes in somewhat under the active switching strategy, at 8.91%. We can call this allocation "A". However, there is a problem; risk, which is still very high at 10.78%. This means, that return will vary, within any one year by around 11%, so investors should expect a rough return between negative 2% and positive 19%.

Strategy	Annual return	Annual risk
75% equities/25% bonds (A)	8.91%	10.78%
75% bonds/25% equities (B)	8.61%	4.54%

Table 2

Now, look at the static bond allocation strategy, with a 75% allocation to bonds and 25% allocation to equities, with only slightly lower return, yet still 8.61%. We can call this allocation "B". Yet, notice the risk is much lower at 4.54%. Hence, in any one year investors should expect returns to vary between circa 4% and 13%. Notice the way the static return is 2.46% lower than the active switching strategy in Table 1 above, while risk is roughly half.

### Something more realistic

Ok, we have the extreme model results, and the static results. What about the middle ground?

Here, if we develop the following model for more realistic investment practice, by using more realistic asset allocations. Instead of being long equities 100% of the time, we adopt a less aggressive allocation to equities; say 75% equities and 25% bonds. In the alternative, instead of being long bonds, we can adopt a conservative allocation, 75% bonds and 25% equities. Details are summarised in Table 3 below.

Strategy	Annual return	Annual risk
Trading model using allocations A and B	9.95%	8.01%
Trading costs	1.20%	
Net trading model	8.75%	8.01%

Table 3

As Table 3 indicates, the returns are good before and after trading costs, coming in around 8.75%, with a risk of 8.01%. Yet, we wonder how all this trading and switching has really benefited the portfolio, when compared to the bond allocation in Table 2 above. Here, risk is still high at 8.01%, compared to a static allocation under scenario "B" and return only 14bps better, specifically allocation "B" provides a return of 8.61%, compared to the return of 8.75% for the active switching model using realistic allocations.

### Conclusion

This article looked at a basic allocation model, which allocated between bonds and equities on the basis of returns being higher, or lower, than the 200 day moving average, where some auto-correlation in equity returns was the basic assumption of the model. Evidence of the fact that this approach is relevant is the number of times the model trades per year; a little over six times a year. If equities were not auto-correlated, then that number would be much, much higher. Active switching, using plausible asset allocations, not the extreme allocation of 100% long equities, or 100% long bonds, only generates a slightly higher return, than the static allocations, but at what cost?

Risk, is the answer here, as the risk of the active switching model is almost double the static allocation to 75% bond-25% equity allocation. In other words, to get that extra few basis points in return, you need to accept double the risk.

### "Not a good trade-off" for investors

Active switching places the client with an allocation to equities of around 60% on average, and this allocation does not derive the large benefits from bonds that the 75% bond-25% equity allocation provides. Investors that actively allocate between equities and bonds assume they can beat the market, and also beat it in a way that cuts risk. This article shows both these assumptions are optimistic.

(1) Asset class returns are estimated using the following data:

- Equities: All ordinaries accumulation, 3 October 1989 to 1 August 2012, daily
- Fixed rate bonds: UBS Composite 0+ yrs, 3 October 1989 to 1 August 2012, daily

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# Investing for Income

By Alan Hull *Fund Manager ActVest Pty Ltd*



An income stock is one that we buy and hold for the purpose of sharing in a Company's profits rather than capitalizing on the growth of its share price. But to really get our heads around this distinction we need to understand the difference between shares and the underlying companies that they represent. The difference is the crowd.

The crowd, being the market participants, collectively places a value on companies via the share price. The crowd is you and me by the way, and unfortunately, contrary to conventional economic theory, we aren't that efficient when it comes to valuing our assets. What this simply means is that the market value of a company and the profits it generates are not directly linked.

## Example

If there are 10 million shares issued for Company A and the shares are trading at \$20 each then the market capitalization or the value that the market places on the company is;

$$10,000,000 \text{ shares} \times \$20 = 200 \text{ million dollars}$$

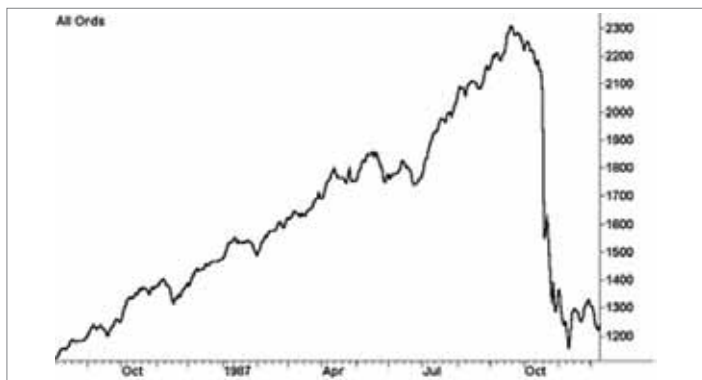
Now let's assume that there is no change in the trading conditions of the Company other than some speculation about a foreign competitor entering the marketplace in the future. If the shares are sold down to \$10 each then the market has halved the value it places on Company A.

$$10,000,000 \text{ shares} \times \$10 = 100 \text{ million dollars}$$

The key point here is that the share price may alter substantially without any actual change in the performance of the underlying company. Supposedly, the value which market participants place on a company and the actual value of the company in terms of its assets and earnings, should be pretty much one and the same...in theory.

But the crowd forms a slippery barrier between the value of the shares and what the company is actually worth. Furthermore the crowd may value the shares using factors that have little or nothing to do with the company itself. Whilst this may seem to be an unwanted complication, it is the very reason for the marketplace's existence. If we could value shares using just solid facts then the Stock market would probably cease to exist as the volume of trading would dry up.

Items with a fixed value can't be traded in a marketplace. (You wouldn't pay \$60 for a \$50 note, nor would you sell a \$50 note for \$40.) Shares are in fact an intangible representation of tangible companies. The two components are linked together via us, the crowd. But although we own public companies by possessing shares in them, it is important to differentiate between shares and the public companies they represent.



All Ordinaries showing the 1987 crash

In the chart of the All Ordinaries index you can see how the crowd effectively devalued Australian Public Companies by 43% during the Stockmarket crash of 1987. This sharp devaluation wasn't because the performance of Australian Public Companies suddenly dropped by 43%. Rather, it was because of a sudden drop in global investor sentiment...in other words, the U.S. Stock market crashed and we followed.

Dividend payments were largely unaffected and didn't fall by 43% in October 1987. Hence the 43% collapse in the All Ordinaries during October 1987 was due to the sentiment of the crowd and had little to do with the earning capacity of Australian Public Companies.

So there are Australian Publicly Listed Companies which are tangible in nature and the shares that are traded on the Australian Stock market that represent them...which are intangible. Now as an investor who wishes to buy into the underlying business and share in its very real profits, I need to focus on the tangible business and try to ignore crowd sentiment.

Hence if we are investing in companies for income, then our perception is that we own part of the company as a tangible asset. Commonwealth Bank of Australia is a good example of a public company as an income producing asset. If you had bought shares in CBA around the time of their initial listing, late 1991, you would have paid approximately \$6.50 per share and you would now be receiving an annual dividend payment of about \$3.25 per share.

Taking inflation into consideration (at a rate of 4%pa) your initial investment of \$6.50 per share is worth just over \$15 in today's money. Therefore in real terms your annual dividend payment of \$3.25 represents an annual yield of just over 20%...not bad. And I haven't even taken into consideration the tax credits which would bump it up even further...better than not bad.

Furthermore this assessment of CBA as an income producing asset is completely independent of CBA's current share price which quite frankly has gone nowhere of late. In fact it's actually down on where it was 4 years ago and so from a growth perspective it has been a very ordinary investment proposition.



CBA's share price is down over 4 years

Hence an income investor has little concern about the direction of share price movements. As income investors we want to accumulate assets...not buy and sell them. Our key objectives are therefore very different from an investor seeking growth and here is a summary of them.

- You want to own your income producing assets forever...you never want to have to sell
- You must very carefully assess the income producing capabilities of your assets
- You must purchase your assets at the lowest price possible, in a market dip
- Your assets must be able to withstand the passage of time

*Continued on page 11*

# Indications of a cyclical market low

By Robert Vagg



At the recent AIA National Conference I described a number of identifiable regular trends that underlie price movements in the Australian stock market<sup>1,2</sup>. An important one of these is a repeating 10-year volatility cycle that may be dissected into two phases: a six-year growth phase and four years of price weakness. Designated as the market's Secondary Trend, this pattern, and its correlation with the cyclical nature of the domestic economy, also was analysed in detail in my article in the August 2011 issue of *Investors' Voice*<sup>3</sup>.

## The Decadal Cycle

The timing of that 10-year cycle is currently relevant, since it indicates that the market's growth phase generally commences around the end of the third year of each decade – i.e. the year ending in 2.



Figure 1: Regular growth patterns in the All Ordinaries Index

of the 1970s decade and the WWI period stand out as the only real inconsistencies in this cyclical pattern.

In order to gain some concept of the reliability of this repeating cycle, I have separated the thirteen decadal pathways taken by the All Ordinaries Index through its 137-year history. These are shown as a composite diagram in Figure 2. The combined average path also is indicated. This shows (in red) that, on average, although quite volatile little price growth occurs from the middle of the ninth year through



Figure 2: Decadal growth and consolidation pathways

The asymmetrical nature of the cycle is represented in Figure 1. Periods where price growth would be anticipated to occur have been highlighted in blue. Time spans shown in red correspond to expected periods of price weakness or consolidation.

The abnormalities

of the 1970s decade and the WWI period stand out as the only real inconsistencies in this cyclical pattern. In order to gain some concept of the reliability of this repeating cycle, I have separated the thirteen decadal pathways taken by the All Ordinaries Index through its 137-year history. These are shown as a composite diagram in Figure 2. The combined average path also is indicated. This shows (in red) that, on average, although quite volatile little price growth occurs from the middle of the ninth year through into the third year of the following decade (averaging 0.7% p.a.). From the middle of the third year to the middle of the ninth (blue) price growth then averages 9.4% p.a. before entering a 4-year consolidation phase again. The anomalous pattern obvious for the 1970s was compensated by massive price growth in the 1980s as the market played catch-up in the mean reversion process. The path taken over the last four years (distinguished in green) appears to be fairly typical.

## The Coppock Entry Signal

Support for this cyclical pattern is afforded by calculation of the Coppock Indicator derived from the All Ordinaries Index. Readers are referred to an article describing the relevance of this long-term market-timing tool in the November 2011 issue of *Investors' Voice*<sup>3</sup>. In that article I indicated the approach of a long-term market entry signal based on the Indicator. My calculations during July 2012 showed that any close for that month of the Index above a value of 4100 would have triggered such a signal. In the event, the Index closed July almost 200 points above this value. This signal, shown in Figure 1, then coincides with the expected cyclical low described above.

Similar to the decadal cycle, I have attempted to gauge the reliability of this technical analysis tool as an indicator of market lows. Figure 3 displays each of the paths taken by the All Ordinaries Index from

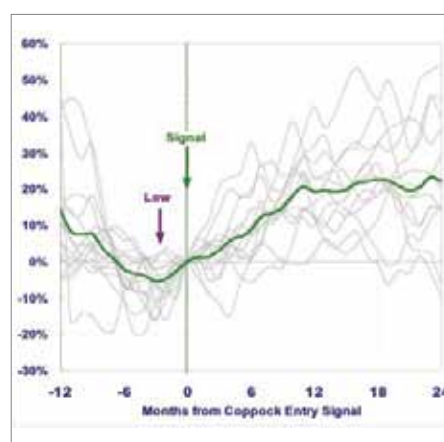


Figure 3: All Ordinaries Coppock Indicator pathways

12 months prior to 24 months after the triggering of a Coppock entry signal. Again a combined average of these pathways also is displayed. Although a degree of scatter again exists, this study shows that, on average, an entry signal is generated a little less than 3 months after achievement of a market bottom, with price growth of around 20% then ensuing over the following 12 months.

## Conclusion

The analyses described above are each consistent with the formation of a long-term market low around this time that historically has been followed by a period of significant price growth. None-the-less, the individual pathways that have developed from this point in the past have varied widely, and the market's path in the immediate future still may be anything but average.

1. Robert Vagg, 'Volatility Cycles in the Stock Market', Australian Investors Association National Conference, Gold Coast, Qld, 29 July-1 August 2012 (available on the AIA website).
2. A descriptive paper of this presentation is available from the author upon request via the email address below.
3. Past *Investors' Voice* articles are available for download on the AIA website. Robert Vagg is a member of the AIA (email: rsvagg@gmail.com).



Friday 5 – Saturday 6 October  
Melbourne Convention & Exhibition Centre  
tradingandinvestingexpo.com.au

## Calling Melbourne Volunteers

The AIA is proudly participating with a booth at this expo. We invite members to join us in the activities of running it over the two days. It will be fun, social and importantly, provide a wonderful opportunity to promote the AIA.

If you are able to assist please select a time slot/slots and contact Donna on email: [aia@investors.asn.au](mailto:aia@investors.asn.au) or phone: 1300 555 061 by Friday 14 September 2012 for further information.

- 1 Fri 5 Oct 10am to 2pm
- 2 Fri 5 Oct 1pm to 5pm
- 3 Sat 6 Oct 10am to 2pm
- 4 Sat 6 Oct 1pm to 5pm

# Sheltering in Bornstein's 'perfect storm' – excess contributions tax crisis averted

By David Oon ([doon@dbalawyers.com.au](mailto:doon@dbalawyers.com.au)), Consultant and

By Bryce Figot ([bfigot@dbalawyers.com.au](mailto:bfigot@dbalawyers.com.au)), Senior Associate, DBA Lawyers 23 July 2012

**Abstract: the successful outcome in the excess contributions tax matter of Bornstein has allowed comparisons to failed attempts in order to better understand when the discretion to disregard or reallocate contributions might be exercised.**

Bornstein v Commissioner of Taxation [2012] AATA 424 represents a rare instance of a taxpayer being successful in an excess contributions tax matter in the AAT. Looking for an 'exception to the general rule', the AAT appeared to acknowledge the difficulty faced by taxpayers in these matters. Accordingly, dismantling the 'perfect storm' in Bornstein gives new and valuable insights into when the Commissioner's discretion to disregard contributions is likely to be exercised.

## The facts in brief

The taxpayer (Bornstein) was the sole director and shareholder of a company, and was also employed by it. Over a number of financial years, the company had been making contributions to the taxpayer's superannuation fund, with this happening toward the end of each financial year.

The taxpayer was overseas between 21 June and 8 July 2007. When he contacted his accountant to check whether a superannuation contribution had to occur before the end of the financial year, he was given the impression he had a period of grace in which to make the payment, which would then be backdated to the 2006–07 financial year.

The taxpayer paid an amount into his superannuation fund on 10 July 2007. The taxpayer's evidence was that he consulted the ATO website, which advised an employer could make super contributions in respect of an employee up until 28 July. That page of the website did not refer consequences for the employee in this regard. The taxpayer gave evidence that he assumed he was able to make the superannuation contributions in this way without anyone suffering adverse consequences. The taxpayer became liable to pay excess contributions tax. The Commissioner refused to exercise the discretion to reallocate the contribution under s 292–465 of the Income Tax Assessment Act 1997 (Cth) ('ITAA 1997'). The taxpayer's objection that followed was unsuccessful. Review by the AAT was then sought. We now consider the critical issues in excess contributions matters, in light of the outcome in Bornstein.

## When is a contribution 'made'?

Timing of a contribution will be a preliminary issue. In Bornstein, no argument was made that the contribution was actually made in the earlier financial year. Further, other decisions make it very clear that contributions are generally 'made' when they are received by the superannuation fund's account. This was the approach taken in *Peaker v Commissioner of Taxation* [2012] AATA 140, *Chantrell v Commissioner of Taxation* [2012] AATA 179 and *Rawson v Commissioner of Taxation* [2012] AATA 322. These decisions show the difficulties of mounting an argument based on electronic funds transfers or BPAY transfers very late in the financial year, where the money has been received by the fund in the new financial year.

## What will constitute 'special circumstances'?

The exercise of the discretion to disregard or reallocate contributions requires 'special circumstances'. *Tran v Commissioner of Taxation* [2012] AATA 123 states that an 'innocent mistake or ignorance of the law does not, in itself, constitute special circumstances'. Bornstein reiterated that 'circumstances are not special if they are common-place or usual'. So what was considered different in the case? The following items were, together, held to constitute special circumstances:

- The taxpayer took advice from his accountant. It was relevant that he was conscious that he had obligations and was being 'diligent in attempting to comply with them'.
- There was apparent ambiguity on the ATO website (there was no requirement, however, that the ATO had to be 'at fault').
- The Commissioner did not alert him to the true position, before the further payment that breached the limit was made. Also, the behaviour of the taxpayer's superannuation fund did not give him any reason to question what he had done.
- The take-home point is that where a good faith mistake is made due to bad advice or ambiguity, the discretion is more likely – although by no means guaranteed – to be granted. Compare this to the 'late payment' cases mentioned above, where the person contributing either simply made the 'mistake' of paying too late, or worse, as discussed in some decisions, effectively 'took a gamble' on whether electronic funds or BPAY transfers would take place on time. The taxpayer will almost certainly be unsuccessful in these scenarios.

## Consistency with the object of the legislation – intention of contributor is relevant

Another element that must be made out is that the determination to disregard or reallocate a contribution can only be made if this would be consistent with the object of div 292 of the ITAA 1997. The stated object is, broadly, to ensure that concessional taxed superannuation benefits result from contributions made gradually over one's life. Bornstein reveals a critical point here in that the taxpayer's intention was actually relevant to the question of consistency with the objection of the legislation. In the facts, the taxpayer had been contributing gradually over a number of years and intended to do so again. Reallocating the contribution was therefore held to be consistent with the legislation's object. The point to remember is: it is in the taxpayer's favour if they have merely been trying to contribute gradually, and this has been the norm over a number of years.

This is in contrast to 'special circumstances', where intention is generally not relevant. This was the case in *Chantrell*, where the contribution actually fell in a later year, despite the taxpayer's intention to contribute in the earlier year.

## Reasonable foreseeability, appropriateness and 'any other relevant matters'

The Commissioner may have regard to whether it was reasonably foreseeable when the contribution was made that excess contributions tax would arise. In Bornstein, it was conceded that 'one one level, the [tax] was indeed foreseeable: if the taxpayer had properly understood his obligations, he would have anticipated the problem.' However, this appeared to have been given little or no weight, as the taxpayer was nonetheless successful.

The Commissioner may also have regard to whether a contribution would 'more appropriately be allocated towards another financial year'. In Bornstein, this seemed to be satisfied easily due to 'consistency with the object of the legislation' and 'special circumstances' being made out. Senior Member McCabe stated while the taxpayer had 'failed to comply with the letter of the rules, he [had] clearly complied with their spirit'.

It should also be noted that the category of things that can be considered in these cases is not closed. Section 295–465 provides that the Commissioner can have regard to 'any other relevant matters'. It remains to be seen what further matters will be deemed relevant in future.

*Continued on page 11*

# The case for direct US shares

**Joel Palmer** *Principal of Palmer Portfolios Group*

We live in an increasingly global world, yet the vast majority of Australian investors do not consider the merits of directly purchasing overseas shares. Yet it is increasingly easy and cheap to do so.

Finance journalists and commentators often remark that “The Australian share market represents just 2% of the world share market.” Therefore, some 98% of opportunities lie overseas.

The easiest, quickest and cheapest way to access overseas shares is to access the US share market. This article looks at the reasons for considering a direct US share portfolio, plus the most cost-effective way for Australians to participate.

## Diversification beyond Australia

A key consideration for investing in US equities is diversification.

The Australian share market is heavily weighted towards banks and mining companies. This limits investor's choices for diversification across a variety of industries.

By contrast, in the US, you can invest in IT leaders Google (Nasdaq:GOOG) and Apple (Nasdaq:AAPL), right down to quirky little growth companies like Build-A-Bear Workshop (NYSE:BBW) and 99 Cents Stores (NYSE:NDN). Increasingly, companies from Europe, Asia and other emerging markets are also “dual-listing” on the US share market, which opens the door to an even greater diversity of global investment opportunities.

Apart from the diverse range of companies, the US share market is also significantly larger than Australia's market. The Australian share market has just 880 companies with a market size greater than \$50 million, while the USA has about 4,750 listed companies greater than \$50 million in size. Immediately, your “universe” of investment opportunities is greatly increased.

The issue of diversification can also be extended to look at an Australian investor's typical household balance sheet. The average Australian is primarily invested in three asset classes – Australian property, Australian shares and Australian cash (and most often with a heavy tilt towards property). While Australian property has historically been a sound performer, our nation's “over-weight” position in real estate can be seen as a diversification risk.

## Take advantage of high Australian dollar

The Australian dollar is unusually high and this offers opportunities for Australian investors to invest overseas. In a nutshell, your \$A buys a lot more than it did before. Ten years ago one Australian dollar bought 53 US cents, while today (August 2012) it buys twice as much at about \$US1.05.

While it is difficult to predict the future of currency movements with any great accuracy, historically there has never been a better time to convert \$A to \$US.

## Lower trading costs

Compared to the US, Australian investors have typically been over-charged for share brokerage. However, Australian investors holding an account direct with a US broker can easily trade US shares for as low as \$5 per trade. The lower transaction costs provides scope to trade smaller parcels of shares, thereby increasing the diversification of a portfolio and lowering the barriers to starting a US portfolio.

My firm's US share portfolio service has partnered with Interactive Brokers LLC. It offers low-cost brokerage and access to very sophisticated trading software.

There are two main cost considerations for Australian investors considering US shares:

1. The cost of currency conversion. Overseas transactions need to be converted into US dollars (and most likely back into Australian dollars at a later date). If your broker allows you to do this at genuine wholesale rates (rather than retail bank rates) then you can save yourself 2-3% on your transfers. This is a significant cost consideration.
2. Share brokerage. Serious investors should go direct with a US broker as the cost will be significantly lower than using an Australian broker like Comsec or E\*Trade. Through Interactive Brokers our clients pay US 0.5cents per share traded. So to buy or sell a 1,000 parcel of \$20 shares (\$20,000 trade value), the brokerage cost would be just \$5 (or 0.025%). The same trade through Commsec would cost \$65.

## What about currency risk?

Australian investors will typically value their assets in Australian dollars. Investing in US shares adds another layer of risk. In addition to the normal risks associated with share ownership, there is the currency risk that could see either a decrease or increase the value of your portfolio if measured in your “home” currency.

While the \$A is now historically high against the \$US, Australian investors in the US should note that if the value of the \$A continues to rise, this will devalue the value of a US share portfolio in \$A terms. Conversely, if the \$A falls, this will inflate the value of a US portfolio in \$A terms.

Your ultimate return in Australian dollars is dictated by two factors: how well your underlying shares perform, plus the US dollar exchange rate.

## Select your strategy

Selecting individual stocks from a universe of stock with 4,750 US companies with a market cap greater than \$50 million can be a challenge. I personally use Google Finance's Stock Screening tool <http://www.google.com/finance?gl=us&hl=en#stockscreeener> which is an excellent free online resource. Value investors may want to look at ValueScreeners <http://www.value-investing.eu/>

Using Interactive Brokers to trade US shares, also gives you have access to their screening tool and research services.

Our strategy for clients of Palmer Portfolios is to blend two distinct styles of investing – Value and Growth into one portfolio of 40 companies. In simple terms:

- Half of a client's portfolio is invested in 20 stocks chosen according to a strictly followed VALUE-based quantitative strategy.
- The other half of a client's portfolio is invested in 20 different stocks, chosen according to a strictly followed GROWTH (momentum) based quantitative strategy.

It is widely acknowledged that “Value”-style investing usually outperforms in an overall “bear” market, and “Growth”-style investing usually outperforms in a “bull” market.

We split a client's portfolios between the two main investment styles. This is designed to smooth some of the volatility associated with normal market cycles, and improve a portfolio's overall risk-adjusted return.

The decision to invest in US shares should not be taken lightly. It is not for everyone. You need to completely understand the added currency risk and possible added volatility before purchasing direct overseas shares.

# The Australian Dollar- Where to Now?

By Lee Spano *Private Investor and Trader, Australian Investors Association (AIA) Member*



The Australian Dollar is highly relevant for many Australian stocks, particularly our export laden resources sector. Many commentators offer conflicting views as to where it is likely to go in the next few months, let alone the next few years. Yet all of us have an opinion, and all of us are impacted by its movements. However, can we devise a framework of analysis for our dollar, which is balanced, objective and one that can serve us well in volatile and uncertain macroeconomic conditions?

For the purposes of this article, we will focus on the AUD/USD pair. As with any currency, we therefore need to be mindful of both the AUD and the USD. The suggested framework draws from both technical and fundamental analyses, and can be described through the following questions:

## 1. What is the trend of the AUD/USD and what is its nature?

To determine the existence of a valid trend we must have clear defining technical rules applied to the relevant chart. For longer term decision-making, consider both the daily and weekly charts of the AUD/USD. At the time of writing, since August 2011, the daily chart does not show a valid trend. Rather we have a market ranging or in a sideways channel pattern between 0.97 and 1.08, and interim resistance at 1.04. The weekly chart over the last five years, confirms these numbers, and shows that the uptrend, which commenced in May 2009 ended and moved into a ranging pattern in about April 2011. Currently (early August, 2012), we are in the long or bullish leg of this range, about mid-way with price around the interim resistance level of 1.04. Therefore, there is divided probability that the price may continue to move either towards the peak of 1.08, or bounces off the interim resistance of 1.04 and moves back towards support of 0.97.

## 2. How is the AUD/USD correlating with other major currencies?

To fully examine the AUD/USD, we must also analyse the USD, preferably the USD Index. On the daily chart, we also see a ranging pattern from 10,035 to 10,189, which commenced in May 2012. Currently, there is the prospect of a bounce long off the established support level of 10,035. The five year weekly chart confirms this range, and shows an earlier uptrend which started in November 2011 moving into this range in May 2012. This ranging nature of the USD accords with the ranging nature of the AUD/USD. Importantly, if at the time of writing, in the short or medium term, the USD is to bounce long off support, then there is a probability the AUD/USD will become bearish. This is consistent with the AUD/USD currently testing the interim resistance level of 1.04 and possibly moving down towards the support of 0.97.

Other currency pairs should also be examined, such as the EUR/USD. Historically, the AUD/USD has been positively correlated with the EUR/USD and has been considered to also be a 'risk currency', as distinct from a hedge or safe-haven currency. However on the weekly chart, the EUR/USD has been in a downtrend since September, 2011, and there has only been small ranging periods. Yet as we saw earlier, the AUD/USD has been ranging throughout this same period. This is technical evidence supporting the talk of the AUD/USD in recent years being seen more as a safe-haven currency, no doubt due to our weathering of the GFC in 2008 and our linkages, particularly in our resources sector, to China.

## 3. How are key national macroeconomic factors impacting the AUD/USD?

There are several national indicators which impact the AUD/USD, including RBA interest rate decisions, the CPI and the Trade Weighted Index (TWI). For the purposes of this short article, we will focus on interest rates.

Broadly speaking, higher interest rates are bullish for the AUD/USD, improving longer term investor or bank returns. Raising interest rates is still the RBA's chief tool to maintain low inflation, and to cool an overheating economy, or conversely lowering such to stimulate a flagging economy. When we examine the historical RBA cash rates since the GFC, we find two distinct periods. Since October 2009 we saw consistent interest rate increases until November, 2011 when we saw successive reductions. The first period roughly accords with the technical uptrend in the AUD/USD noted above between May 2009 and April 2011. Further, the second falling interest rate period roughly accords with the technical ranging pattern since August 2011.

The most recent decision in July 2012 saw the RBA leave rates on hold at 3.5%. From the RBA's reasons for its July decision we can distil the key observations of the RBA-

- a) Concerns with continuing shocks from Europe, which may be long term.
- b) Concerns with slower growth in China and the US.
- c) Noting declining commodity prices.
- d) A view that Australia's terms of trade have peaked.
- e) Inflation is seen to be consistent with its target, and no change in the outlook for inflation over the next two years; this includes considerations relating to the carbon tax.
- f) National economic growth is seen to be close to trend.

These observations and the historical analysis of the RBA's decisions, suggest we are entering a stable mid-range period where interest rates may be left around 3.5%, unless of course there is a major shock from Europe. This mid-range period will have a neutral impact on the AUD/USD, and is consistent with the continuation of its ranging pattern, identified earlier.

## 4. How are commodities impacting the AUD/USD?

Given the dominance of our resources sector, the attractiveness of the AUD/USD and the strength of the Australian economy are strongly linked to key commodities, such as copper, oil and gold. If we look at the London Copper (Grade A) weekly chart, we see copper prices peaked in February, 2011 and have been in a mild downtrend since that time. Similarly, the S&P GSCI Enhanced Commodity Index weekly chart peaked in April 2011 and is still in a downtrend. The outlook for commodities therefore appears bearish, consistent with the RBA observations. This will negatively impact the AUD/USD.

## 5. What are the key international macroeconomic factors impacting the AUD/USD?

The two main factors to consider internationally are: first, the future movement of the USD, and second, world growth concerns, particularly in regards to China.

The USD Index chart as we saw, was in an uptrend since November 2011, and then it has been ranging since May 2012. This is consistent with the USD still generally being seen as a safe-haven when there are global concerns with the traditional risk markets, such as stocks and other major currencies, for example, the EUR/USD. So, if there

*Continued on next page*

## Book review

are international shocks, then the USD will more likely resume its uptrend, if not, then it is likely the ranging pattern will continue. The impact of the US government's domestic interest rate policy now seems to be benign, because it has been left at historically low levels around 0.25% since 2011 to try to continue to stimulate the US economy.

The elephant in the room is the sovereign debt and growth concerns facing particularly the EU, but also the US. The lack of clear long term solutions, beyond short term stimulus injections, create ongoing uncertainties for all markets. This directly impacts Chinese exports and therefore their import of Australian commodities. Our concern is our over-dependence on the resources sector, and the lack of a hedge or alternate growth sector. Manufacturing has had recent difficulties, although IT offers some hope in both the US and Australia, we are not of a comparable scale and domestic capital is an ongoing issue. If these uncertainties continue, then they will promote a continuation of the ranging pattern of the AUD/USD. If there is a major shock in Europe or the US, and China's growth is negatively impacted to the extent that the Chinese government cannot engineer a 'soft landing', then our GFC buffer will be lost, and there is likely to be a strong bearish break of the ranging pattern of the AUD/USD.

### Conclusion

The future direction of the AUD/USD for the short to medium term is more likely to be in accordance with the current ranging pattern we identified technically, and which is supported by the fundamentals. That is, a broad range between 0.97 and 1.08, with interim resistance of 1.04. This is of course, barring a major economic shock from either Europe or the US, which if it significantly impacts growth in China, would more likely cause the AUD/USD to move into a bearish trend. However, this conclusion has not been our main purpose. We trust the framework and the factors we have provided will assist effective and balanced decision-making in tough macroeconomic times.

By Lee M. Spano, Private Investor and Trader, Specialising in Currency and Commodities Markets.

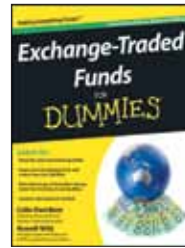
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**Title:** Exchange-Traded Funds for Dummies  
**Author:** Colin Davidson and Russell Wild  
**Publisher:** Wiley Publishing Australia Pty Ltd Melbourne, 2012  
**ISBN:** 978-0-730-37695-8  
**RRP:** \$39.95  
**Reviewer:** Vimal Mehta

Exchange-traded funds (ETFs) are relatively new investment products which are rapidly gaining popularity with investors. ETFs are available in equities, fixed income, and commodities as well as currencies and alternative investments. They are essentially managed funds which are traded like shares and have numerous benefits over the traditional managed funds which they are replacing. The authors, Davidson and Wild, have written "Exchange-Traded Funds for Dummies" to explain how an individual investor can use this powerful tool to manage, save and (hopefully) make money.

After a brief introduction, the authors begin by explaining the "ABCs" of ETFs covering a variety of topics such as:

- The history of ETFs and why they are replacing traditional managed funds
- The characteristics of ETFs and a comparison of ETFs to managed funds and individual stocks
- How ETFs work, including cross-listed ETFs and synthetic ETFs
- How to research ETFs and what to look for when comparing ETFs
- Who the major ETF providers and Indexers are
- Opening a broking account for investing in ETFs and tips when placing orders

Part two of the book begins with a discussion of risk and risk control, diversification, modern portfolio theory and mixing and matching your portfolio of stock ETFs. The chapter focuses on stock ETFs covering aspects such as domestic small, mid and large caps, value versus growth, and sector investing with ETFs together with international investing using equity ETFs. The final chapter is dedicated to exploring ETFs in the United States.

Part three includes other ETFs such as domestic and international real estate investment trusts and high-yield ETFs, and commodity ETFs such as gold, silver. In the final chapter the authors discuss asset allocation: how to mix your existing stock or managed fund portfolio, ETF investment strategies, building the equity and income sides of your new ETF portfolio and a brief discussion of hedge funds and market-neutral managed funds. Throughout the book, the authors list the choices for the various ETFs that are available to investors including the ETF provider, what the ETF is indexed to, the current expense and PE ratios, the top five holdings of the fund as well as a brief review of the fund.

"Putting it all together" is the topic of part four and in this section the authors provide a menu of sample ETF portfolios and practical strategies that investors can use at various stages of their investing lives. Items covered include:

- Risk, return and the keys to optimal investing;
- Timing your investments, costs and tax minimisation;
- Buying and holding ETFs;
- Rebalancing and revamping your portfolio;
- Ramping up your investments using options, CFDs, warrants and margin loans and;
- Using ETFs to fund your retirement and withdrawing funds to replace your pay cheque

The book is well written and authors use a good mix of graphs, tables and some humour making the book both easy and enjoyable to read. As usual, readers should consult their own trusted advisors before making investment decisions, but at under \$40, I feel that "ETFs for Dummies" could be a good starting point for those readers wanting to further their knowledge of this relatively new financial product.

# Exciting times for Magnetic

Magnetic Resources (ASX: MAU) is fast developing itself into a magnetite explorer of note with an abundance of premium quality magnetite projects over a large landholding in the southwest region of Western Australia, all within close proximity to established infrastructure routes.

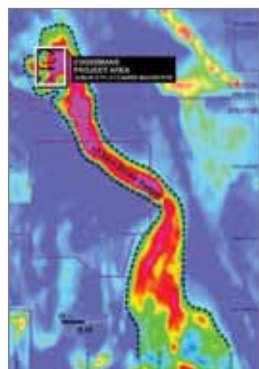
Since listing on the Australian Securities Exchange in 2007, the Western Australian-based company has built up a suite of potential iron ore tenements, all in close proximity to key infrastructure including railway lines and major ports.

When it listed, the company announced in its prospectus that it would be exploring for mineral resources across its tenements which cover some 6704 square kilometres of unexplored or under-explored targets.

Jump forward five years, and the company is well on track of pursuing its strategy, having kicked off exploration programs on a number of magnetite projects which are potentially capable of producing high-quality magnetite concentrate and also direct shipping material (DSO) contained in banded iron formations (BIF).

From an initial 4.3km of potential iron ore strike extent at its Jubuk magnetite project near Corrigin, Magnetic has grown to over 200km potential strike across ten project areas with target potential of up to 2.5 billion tonnes of magnetite and DSO BIF over all projects.

What is particularly exciting from Magnetic's perspective is not only how much potential magnetite there is in the ground but also the high quality, outcropping nature of the deposits.



Magnetite deposits

"What we are doing is we are trying to ascertain how much [magnetite] we do have," Magnetic Resources' highly experienced managing director George Sakalidis told *The Pick* magazine.

"At this point we are targeting

premium quality magnetite that is very coarse grained but with a fantastic concentrate grading at roughly 70 per cent iron and 1.3 per cent silica.

"I am pretty excited personally because we are discovering more and more of this stuff and we have got all this ground. Basically what we are doing is lining up dozens of target areas, some very close to each other, and asking so how much do we have.



Magnetic Project location

"We are going from a position where we only thought we had 40 million tonnes maybe 100 million tonnes to something much, much higher. Maybe we are talking in billion tonnes and of this unusually high quality material which I think is well sought after."

## The Projects

Of its eight project areas, the Jubuk project near the wheatbelt town of Corrigin some 200km southeast of Perth is currently the most advanced and hosts coarse-grained, premium magnetite iron with an exploration target range of 50 – 200 million tonnes of magnetite BIF.

So far, Magnetic has obtained positive results from 74 reverse circulation holes drilled to 8400m at Jubuk including significant intersections of 21m at 30.8% iron from 72m, 12m at 29.5% iron from 76m, 18m at 29.43% iron from 33m and 30m at 22.93% iron from 99m.

Most importantly, the drilling extended the strike length of the BIF to 4.1km open in both directions along strike. The drilling also showed the target BIF to be made up of multiple coarse-grained magnetite rich horizons ranging in thickness from 3 – 15m with up to 12 magnetite-rich horizons evident.

The company also carried out preliminary Davis Tube Recovery (DTR) test work on the RC drill samples with results showing the potential for the project to produce a high-grade concentrate suitable for direct reduction furnace usage.

In September last year, Magnetic released results of an independent conceptual mining and economic study conducted by engineering firm Engenium which reviewed a range of development options for the potential start up project.

The study revealed a Net Present Value of \$40 million, capital cost of \$153 million and operating costs of \$106/tonne based on a 2-2.4 million tonne per annum operation producing 500,000-600,000 tonnes per annum of magnetite concentrate grading 67% iron over 14 years based on 29Mt of mineralisation.

The study was also based on using road haulage directly to Kwinana port in purpose built containers.

Magnetic is now planning a further 45-hole drilling program for 5500 metres on additional targets in a bid to further boost project economics. The company is also preparing a maiden resource and scoping study for the project.

While Jubuk is Magnetic's most advanced project, its Cheesemans target in the Wubin area just 235km north of Perth is shaping up to be a bit of a game-changer.

The company has recently wrapped up a 72-hole, 3082m RC exploration drilling program over the target testing for DSO and BIF.

The results excited Magnetic as they positively confirmed coarse-grained magnetite bearing rocks similar to Jubuk (which was previously not recognised).

At Cheesemans, 42 RC holes for 1837m tested a 1km strike in the northern part of an 11km broad magnetic target with drilling intersecting two BIF units with the best intercept of 22m grading at 28.3% iron. DTR on Cheesemans BIF at 75 micron grind produced a premium product containing 70.2% iron and 1.4% silica with low impurities.

Recently, Magnetic has also wrapped up a road side prospecting reconnaissance rock chip sampling program on tenements close to York around 100km northeast of Perth.

Results from the program provided further positive news for Magnetic, confirming the occurrence of coarse-grained Jubuk-style rock types associated with geophysical anomalies that extend much further north of Jubuk.

The company is now planning follow up sampling, DTR analysis and drilling at the York tenement.

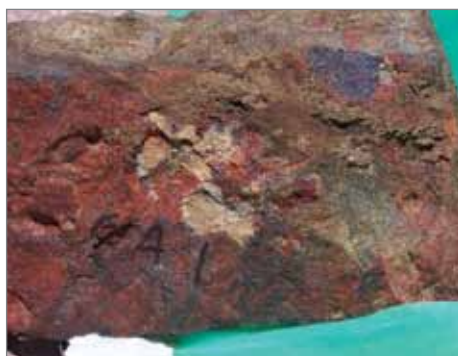
For Sakalidis, the premium quality magnetite intersections at Cheesemans and positive rock chip samples at York may prove to be a real game-changer for Magnetic going forward.

"The game is different now and it has only just happened and it's surprising how quickly it has changed," he said.

"We are saying Cheesemans and York are potentially much, much bigger than we first thought and are possibly located on surface."

Meanwhile, Magnetic also has a number of bulk tonnage propositions including

*Continued on next page*



Magnetic Calingiri sample

Mt Vernon, where DTR test results have returned concentrates averaging 67.5% iron and 1.6% silica, as well as the Malara and Wanara projects.

"These projects are more granite intrusions but have a lot of magnetite in them," Sakalidis said.

"Commonly we get 100 metre intersections averaging around 13 to 14 per cent iron but we haven't optimised where we are drilling. We are just poking holes into these intrusions and getting good hits.

"They are interesting because they are the bulk tonnage propositions and each one might deliver close to half a billion tonnes so they are big. At some point we will have a closer look at them."

Another project that is showing promise is Calingiri which lies 150km north of Perth with surface sample results including iron grades ranging from 36.1% iron to 57.3% iron.

According to Magnetic, the results suggest the possibility of DSO type ores being present at the project. Calingiri lies around 10m south of Atlas Iron's Yerecoin project where a substantial magnetite resource has been reported.

## Infrastructure

A major plus for Magnetic, and one that could make it the envy of a number of its rivals, is the company's close proximity to existing road and rail infrastructure as well as a choice of port options once in production.

"We are right on the railway lines," Sakalidis said. "The York project is on this major north-south railway line right next door to the main east-west Trans Australian Railway line. Meanwhile Calingiri is right on the Toodyay-West Miling railway line.

"It's not deliberate that we found these areas right on the railway line, but that's where it has worked out.

"The main issue is obviously the economics of having to build the railways. If there is something already there then you are not going to have to spend an extra \$1 billion creating a new railway line."

The company also has port options including Albany, Kwinana and Bunbury for its more southern projects while Wubin and other northern projects would utilise Kwinana, Geraldton or Oakajee in the future.

## Discussions

While Magnetic has been busy in the field carrying out exploration work over its numerous projects, Sakalidis said the company has also been in talks with at least ten companies looking at accelerating the discoveries.

"We have been talking to potential partners to see what sort of interest there is," he said.

"There is a list of a dozen or more companies that we have talked to. I wouldn't say any of it is final but at the end of the day, all these projects apart from Jubuk are new so [these companies] have to be updated with these new projects."

## Investing for income... from page 4

So you can see that we need to choose Companies that will last us a lifetime as we never want to sell them. Of course this single criterion will rule out high technology stocks given the volatility of their operating environment. This is why Warren Buffet has a strong preference for companies in low-tech sectors that produce essential products such as food & beverages, toiletries, etc.

Examples of these are Coca-Cola and Gillette where Warren believed that a lot of us drink Coke and all men shave. He's wasn't entirely correct but he wasn't far off the mark either and these investments served both Warren Buffett and his Company Berkshire Hathaway very well.

However Warren completely abstained from the 'Tech' boom in the late 1990's on the simple basis that he perceived the operating environment to be subject to rapid change... a sensible assessment in my opinion. Time has shown that some Technology Companies have done extremely well but many went the way of the dodo bird. Market speculators may consider this an exciting environment but it's certainly not the place for 'buy and hold', income investors.

Thus it is important to distinguish whether you are investing primarily for growth or income and then apply the right criteria. Growth stocks can be exciting to deal in but income stocks require far less effort to manage and represent less risk. And whilst I like a bit of excitement, I also like steady profits and being able to sleep at night.

*This article is an extract from my new book, 'Invest My Way', by Wrightbooks. You can purchase a signed copy from my online bookstore at: [alanhullbooks.com.au](http://alanhullbooks.com.au)*

## Sheltering in Bornstein's 'perfect storm' – excess contributions tax crisis averted... from page 6

### Declaring a trust — a possible workaround

The above leads one to consider other possible options when trying to making a contribution at the last minute. BPAY or EFT payments have proven themselves an unwise choice.

The ATO has recognised in TR 2010/1 that an 'in specie' contribution to a superannuation provider can take place when beneficial ownership of the asset is acquired by the provider, and that beneficial ownership can be acquired earlier than legal ownership. One could argue the same should apply in respect of money. If so, a member may at the last minute declare that they hold money on 'bare trust' for a superannuation fund.

It should be noted that the above is novel, and accordingly is not recommended. Additionally, the ATO's comments were in the context of in specie contributions, not cash. Other legal problems may also

arise. In any case, for those desperate to contribute, one should at the very least seek legal advice, as well as ensure evidence exists to identify when a bare trust came into existence.

### Conclusion

The task of extraction from an excess contributions tax scenario is more like braving a stormy sea than a walk in the park. However, the successful outcome in Bornstein has allowed us to make comparisons to failed attempts in order to better understand when the discretion to disregard or reallocate might be exercised.

*This article is for general information only and should not be relied upon without first seeking advice from an appropriately qualified professional.*

*Note: DBA Lawyers hold SMSF CPD training at venues all around Australia and online. For more details or to register, visit [www.dbanetwork.com.au](http://www.dbanetwork.com.au) or call Marie on 03 9092 9400.*

## Calendar of events

Date	Event	Time	Venue	Topic
12-Sep-12	North Shore Information Meeting	7.00-9.30pm	The Chatswood Club, 11 Help Street, Chatswood	Exchange - traded options for income & hedging
18-Sep-12	Perth Information Meeting	7.30 - 9.30pm	Wembley Downs Tennis Club, Cnr Morden & Ednah Streets, Wembley Downs WA	Navigating the portfolio construction challenges ...
1-Oct-12	Canberra Information Meeting	7.30 - 9.00pm	Southern Cross Club, 92-96 Corinna Street, Woden ACT	Reporting season wrap
2-Oct-12	Perth Information Meeting	7.30 - 9.30pm	Wembley Downs Tennis Club, Cnr Morden & Ednah Streets, Wembley Downs WA	TBA
2-Oct-12	Adelaide Information Meeting	7.00 - 9.00pm	The German Club (The Wolf Blass Weinkeller Room), 223 Flinders Street, Adelaide SA	Getting a sustainable income from equities
3-Oct-12	Brisbane Information Meeting	1.30 - 3.45pm	Broncos Leagues Club, Fulcher Rd, Red Hill QLD	Getting a sustainable income from equities & An Investors' Guide to Managed Funds and LICs
9-Oct-12	Melbourne Information Meeting	6.30 - 8.00pm	Telstra Conference Centre, Room 1, Level 1, 242 Exhibition St, Melbourne VIC	An update and discussion on the global economic environment
10-Oct-12	North Shore Information Meeting	7.30 9.30pm	The Chatswood Club, 11 Help Street, Chatswood	Exchange-traded options for income and hedging
16-Oct-12	Perth Information Meeting	7.30 - 9.30pm	Wembley Downs Tennis Club, Cnr Morden & Ednah Streets, Wembley Downs WA	TBA
17-Oct-12	Gold Coast Information Meeting	9.30 - 11.00am	Robina Community Centre, Robina Town Centre Drive, Robina QLD	An introduction to fixed interest
5-Nov-12	Canberra Information Meeting	7.30 - 9.00pm	Southern Cross Club, 92-96 Corinna Street, Woden ACT	Asset allocation
6-Nov-12	Perth Information Meeting	7.30 - 9.30pm	Wembley Downs Tennis Club, Cnr Morden & Ednah Streets, Wembley Downs WA	TBA
7-Nov-12	Brisbane Information Meeting	6.30 - 7.30pm	Broncos Leagues Club, Fulcher Rd, Red Hill QLD	TBA
7-Nov-12	Members Annual General Meeting	7.30 - 9.00pm	Broncos Leagues Club, Fulcher Rd, Red Hill QLD	Members Annual General Meeting
13-Nov-12	Adelaide Information Meeting	7.00 - 9.00pm	The German Club (The Wolf Blass Weinkeller Room), 223 Flinders Street, Adelaide SA	TBA
21-Nov-12	North Shore Information Meeting	7.30 - 9.30pm	The Chatswood Club, 11 Help Street, Chatswood	Opportunities to profit in 2013
03-Dec-12	Canberra Information Meeting	7.30 - 9.00pm	Southern Cross Club, 92-96 Corinna Street, Woden ACT	What three stocks i like to find in my christmas stocking
04-Dec-12	Perth Information Meeting	6.00pm	Wembley Downs Tennis Club, Cnr Morden & Ednah Streets, Wembley Downs WA	Christmas BBQ
4-Dec-12	Melbourne Information Meeting	6.30 - 8.00pm	Telstra Conference Centre, Room 1, Level 1, 242 Exhibition St, Melbourne VIC	TBA
5-Dec-12	Brisbane Information Meeting	1.30 - 3.45pm	Broncos Leagues Club, Fulcher Rd, Red Hill QLD	TBA
12-Dec-12	Gold Coast Information Meeting	9.30 - 11.00am	Robina Community Centre, Robina Town Centre Drive, Robina QLD	TBA
12-Dec-12	North Shore Information Meeting	7.30 - 9.30pm	The Chatswood Club, 11 Help Street, Chatswood	Christmas special - stories from members

As AIA events are confirmed details are posted to the AIA website [www.investors.asn.au](http://www.investors.asn.au). Please note topic is subject to change.

### Calling Melbourne Volunteers

The Melbourne Trading & Investing Seminars & Expo at the Melbourne Convention & Exhibition Centre Oct 5 - 6th 2012 - AIA invite members to join us in the activities of running the Expo. It will be fun, social and importantly, provide a wonderful opportunity to promote the AIA.

If you are able to assist please contact Donna on email: [aia@investors.asn.au](mailto:aia@investors.asn.au) or phone: 1300 555 061 by Fri 14 Sept for further information



**AUSTRALIAN  
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