APEX SILVER MINES LTD
Form 10-Q/A
May 02, 2007

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-Q/A

Amendment No. 1

(MARK ONE)

x	**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2006.

OR

o	**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE TRANSITION PERIOD FROM TO .

COMMISSION FILE NUMBER 1-13627

APEX SILVER MINES LIMITED

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

CAYMAN ISLANDS, BRITISH WEST INDIES (STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION)	**NOT APPLICABLE** (I.R.S. EMPLOYER IDENTIFICATION NO.)
WALKER HOUSE **MARY STREET** **GEORGE TOWN, GRAND CAYMAN** **CAYMAN ISLANDS, BRITISH WEST INDIES** (ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)	**NOT APPLICABLE** (ZIP CODE)

(345) 949-0050

(REGISTRANT S TELEPHONE NUMBER, INCLUDING AREA CODE)

INDICATE BY CHECK MARK WHETHER THE REGISTRANT (1) HAS FILED ALL REPORTS REQUIRED TO BE FILED BY SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 DURING THE PRECEDING 12 MONTHS (OR FOR SUCH SHORTER PERIOD THAT THE REGISTRANT WAS REQUIRED TO FILE SUCH REPORTS), AND (2) HAS BEEN SUBJECT TO SUCH FILING REQUIREMENTS FOR THE PAST 90 DAYS: YES x NO o

INDICATE BY CHECK MARK WHETHER THE REGISTRANT IS A LARGE ACCELERATED FILER, AN ACCELERATED FILER, OR A NON-ACCELERATED FILER:

LARGE ACCELERATED FILER o ACCELERATED FILER x NON-ACCELERATED FILER o

INDICATE BY CHECK MARK WHETHER THE REGISTRANT IS A SHELL COMPANY (AS DEFINED IN RULE 12B-2 OF THE EXCHANGE ACT): YES o NO x

AT NOVEMBER 3, 2006, 58,439,500 ORDINARY SHARES, $0.01 PAR VALUE PER SHARE, WERE ISSUED AND OUTSTANDING.

EXPLANATORY NOTE

Apex Silver Mines Limited (we, us, or the Company) is filing this Amendment No. 1 (this Amendment) to its Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006 to restate its consolidated financial statements and related financial information.

We are restating the consolidated financial statements to correct the liability of our metals derivative positions. We determined that the method used in prior periods to estimate the fair value of our open metals derivative positions was not appropriate. pursuant to Financial Accounting Standards No. 133, Accounting for Derivative Instruments and Hedging Activities (FAS No. 133), we record our open derivative positions at their fair value on our consolidated balance sheet and record the changes in fair value to current earnings at the end of each reporting period.

Our derivative positions mature or expire on various dates over an approximate six-year period commencing in July 2007. Many of the derivative positions mature or expire beyond the periods covered by the major commodities price indices such as LME or COMEX, or expire in future periods covered by those indices with respect to which only limited trading activity has occurred. In instances where only limited market activity existed, we used price projections provided by an independent third party employing statistical analysis and models to estimate the fair value of our open derivative positions. The models used by the independent third party relied on commodities prices indices out to three months and mean reversion statistical estimates beyond the three-month period. Recently, we reassessed the market information reflected in the commodities prices indices out to twenty-seven months and quoted prices from the counterparties holding the derivative positions and concluded that the additional market information is a more reliable indicator of fair value than the independent third party price projections we previously used.

Based on the reassessment, we concluded that we had understated the liability related to the open derivative positions commencing with the quarter ended September 30, 2005. The cumulative liability for our open derivative positions was understated by $300.5 million at September 30, 2006. In addition, correcting the error in the valuation of the open derivative positions impacted the gain and minority interest that we recognized on the sale of the 35% interests in the subsidiaries that own the San Cristobal project. The gain on the sale increased from $119.8 million to $199.6 million and the minority interest decreased from $88.4 million to $18.9 million at September 30, 2006.

As a result, we have concluded that our financial statements for the quarter ended September 30, 2005, the year ended December 31, 2005 and the first three quarters of 2006 should be restated. This Amendment No. 1 to the Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006 also includes the restatements for the Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2005. Use of the additional market information in calculating the fair value of our open derivative positions will likely result in increased volatility in our earnings during the next three years, the period over which most of the derivatives mature or expire. We intend to settle these derivatives with revenues from San Cristobal production over the six-year period commencing in July 2007. Therefore, the cash effect of settling these hedges will be realized as higher or lower revenue over that six-year period and the ultimate losses or gains from these derivatives will be determined based upon market prices at the time of settlement.

The information contained in this Amendment, including the financial statements and the notes thereto, amends only Items 1, 2, 3 and 4 of the original filing, in each case to reflect only the restatement discussed herein. No other information in the original filing is amended hereby. Currently-dated certifications from our Chief Executive Officer and our Chief Financial Officer have been included as exhibits to this Amendment. As discussed in Item 4, Controls and Procedures (as restated), management identified a control deficiency that relates to the restatement that, under the circumstances, constitutes a material weakness.

The foregoing items have not been updated to reflect other events occurring after the filing date of the original filing or to modify or update those disclosures affected by subsequent events. Except for the foregoing amended information, this Amendment continues to describe conditions as of the date of the original filing, and we have not updated the disclosures contained herein to reflect events that occurred at a later date.

We do not intend to amend our previously-filed Annual Report on Form 10-K or our Quarterly Reports on Form 10-Q for the periods affected by the restatement described herein that ended prior to January 1, 2006.

APEX SILVER MINES LIMITED
FORM 10-Q
QUARTER ENDED SEPTEMBER 30, 2006

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

APEX SILVER MINES LIMITED
An Exploration and Development Stage Company
CONSOLIDATED BALANCE SHEETS
(Expressed in United States dollars)
(Unaudited)

	September 30, 2006 Restated	December 31, 2005
	(in thousands, except share data)	
Assets		
Current assets		
Cash and cash equivalents	$ 138,097	$ 4,808
Restricted cash	15,172	135,182
Investments	290,743	132,000
Restricted investments	101,133	67,491
Ore inventories	444	
Materials and supply inventory	4,124	
Prepaid expenses and other assets	11,444	5,824
Total current assets	561,157	345,305
Property, plant and equipment, net	583,168	379,138
Ore inventories	16,498	
Deferred financing costs	19,988	21,604
Value added tax recoverable	45,537	20,052
Investments	4,000	
Restricted investments		12,392
Other	2,109	2,020
Total assets	$ 1,232,457	$ 780,511
Liabilities and Shareholders Equity		
Current liabilities		
Accounts payable and other accrued liabilities	$ 66,048	$ 74,487
Accrued interest payable	799	3,096
Derivatives at fair value	17,827	5,652
Current portion of long term debt	2,993	2,270
Total current liabilities	87,667	85,505
Long term debt	434,117	320,021
Derivatives at fair value	464,920	145,719
Deferred gain on sale of asset	1,400	
Asset retirement obligation	5,394	2,003
Total liabilities	993,498	553,248
Minority interest in subsidiaries	18,876	34
Commitments and contingencies (Note 12)		
Shareholders equity		
Ordinary Shares, $.01 par value, 175,000,000 shares authorized; 58,435,200 and 50,444,890 shares issued and outstanding at respective dates	584	504
Accumulated other comprehensive income (loss)	160	(243)
Additional paid in capital	666,291	486,762
Accumulated deficit during development stage	(446,952)	(259,794)
Total shareholders equity	220,083	227,229
Total liabilities and shareholders equity	$ 1,232,457	$ 780,511

The accompanying notes form an integral part of these consolidated financial statements.

APEX SILVER MINES LIMITED
An Exploration and Development Stage Company
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(Expressed in United States dollars)
(Unaudited)

	Three Months Ended September 30, 2006 Restated	2005 Restated	Nine Months Ended September 30, 2006 Restated	2005 Restated	For the Period from December 22, 1994 (inception) through Sept. 30, 2006 Restated
	(in thousands, except share data)				
Operating income and expenses:					
Exploration	$ (2,155)	$ (1,097)	$ (5,162)	$ (3,858)	$ (78,593)
Administrative	(4,123)	(4,814)	(15,122)	(13,660)	(84,980)
Gain (loss) on commodity derivatives	(119,934)	(79,689)	(370,895)	(77,633)	(521,443)
Gain (loss) on foreign currency derivatives and transactions	203	474	439	(810)	1,167
Other operating expense (1)	(134)		(276)		(276)
Amortization and depreciation	(100)	(81)	(296)	(114)	(1,692)
Total operating expenses	(126,243)	(85,207)	(391,312)	(96,075)	(685,817)
Other income and expenses:					
Interest and other income	4,469	5,700	12,637	12,743	47,309
Gain on sale of interest in subsidiary	199,600		199,600		199,600
Gain on extinguishment of debt			2,875		9,640
Interest expense and other borrowing costs (2)		(2,639)	(774)	(6,501)	(11,696)
Total other income and expense	204,069	3,061	214,338	6,242	244,853
Income (loss) before minority interest and income taxes	77,826	(82,146)	(176,974)	(89,833)	(440,964)
Income taxes	(54)		(161)		(540)
Minority interest in (income) loss of consolidated subsidiaries	(10,016)	1	(10,023)	12	(5,448)
Net income (loss)	$ 67,756	$ (82,145)	$ (187,158)	$ (89,821)	$ (446,952)
Other comprehensive income:					
Unrealized gain (loss) on securities	$ (42)	$ 30	$ 160	$ (127)	$ (83)
Reclassification for loss on securities included in net income	(518)		243		243
Other comprehensive income (loss)	(560)	30	403	(127)	160
Comprehensive income (loss)	$ 67,196	$ (82,115)	$ (186,755)	$ (89,948)	$ (446,792)
Net Income (loss) per Ordinary Share - basic	$ 1.16	$ (1.68)	$ (3.35)	$ (1.87)	
Net Income (loss) per Ordinary Share - diluted	$ 1.15	$ (1.68)	$ (3.35)	$ (1.87)	
Weighted average Ordinary Shares outstanding - basic	58,417,387	48,781,621	55,816,488	48,047,071	
Weighted average Ordinary Shares outstanding - diluted	58,989,561	48,781,621	55,816,488	48,047,071	

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(1) Other operating expense is accretion expense associated with our asset retirement obligation at San Cristobal.

(2) Interest expense and other borrowing costs are net of $7.7 million and $18.7 million capitalized for the three and nine month periods ended September 30, 2006, respectively and $1.8 million and $4.3 million for the three and nine month periods ended September 30, 2005, respectively and $28.1 million for the inception to date period ended

September 30, 2006.

The accompanying notes form an integral part of these consolidated financial statements.

APEX SILVER MINES LIMITED
An Exploration and Development Stage Company
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Expressed in United States dollars)
(Unaudited)

	Nine Months Ended September 30, 2006 (in thousands)	2005	For the period from December 22, 1994 (inception) through September 30, 2006
Cash flows from operating activities:			
Net cash used in operating activities	$ (58,417)	$ (16,491)	$ (165,294)
Cash flows from investing activities:			
Purchase of available for sale investments	(385,104)	(404,500)	(1,578,296)
Sale of available for sale investments	183,172	521,798	1,247,124
Purchase of held-to-maturity investments	(24,662)	(17,524)	(263,869)
Sale of held-to-maturity investments	8,000	95,770	195,007
Purchase of available for sale restricted investments	(233,200)		(248,150)
Sale of available for sale restricted investments	246,400		246,400
Purchase of held-to-maturity restricted investments	(22,199)		(49,542)
Sale of held-to-maturity restricted investments	45,882	4,668	60,658
Payment of derivative premiums & settlements, net	(39,519)	(1,889)	(39,620)
Advances for construction of port facility			(2,000)
Advances to suppliers and contractors	(1,480)	(1,296)	(5,355)
Released from (transfer to) restricted cash to collateralize credit facility, letters of credit and interest payments, net	120,010	(96,892)	(18,134)
Proceeds from the sale of interest in subsidiary	224,000		224,000
Capitalized costs and acquisitions of property, plant and equipment	(207,283)	(101,301)	(490,213)
Net cash used in investing activities	(85,983)	(1,166)	(721,990)
Cash flows from financing activities:			
Proceeds from issuance of Ordinary Shares (net of offering costs of $4.8 million in 2006)	156,795	16,639	580,358
Proceeds from issuance of convertible notes			339,987
Payment of debt issuance costs	(671)	(3,778)	(24,992)
Payments of notes payable and long term debt	(1,607)	(2,142)	(4,883)
Proceeds from note to power line contractor	1,407		1,407
Borrowings under project finance facility	120,000		120,000
Proceeds from exercise of stock options and warrants	1,765	107	13,504
Net cash provided by financing activities	277,689	10,826	1,025,381
Net increase (decrease) in cash and cash equivalents	133,289	(6,831)	138,097
Cash and cash equivalents - beginning of period	4,808	27,740	
Cash and cash equivalents - end of period	$ 138,097	$ 20,909	$ 138,097

See Note 14 for supplemental cash flow information.

The accompanying notes form an integral part of these consolidated financial statements.

APEX SILVER MINES LIMITED
An Exploration and Development Stage Company

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS
(Expressed in United States dollars)

1. Basis of Preparation of Financial Statements and Nature of Operations

These unaudited interim consolidated financial statements of Apex Silver Mines Limited (the Company) and its subsidiaries have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission (SEC). Such rules and regulations allow the omission of certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles in the United States of America, so long as such omissions do not render the financial statements misleading. Certain prior period amounts have been reclassified to conform to the current period presentation.

In the opinion of management, these financial statements reflect all adjustments that are necessary for a fair statement of the results for the periods presented. All adjustments were of a normal recurring nature. These interim financial statements should be read in conjunction with the annual financial statements of the Company included in its 2005 Annual Report on Form 10-K as amended.

The Company is a mining exploration and development company that holds a portfolio of exploration and development properties primarily in South America and Central America. The Company currently focuses its resources primarily on the development of its San Cristobal Project in Bolivia. At present, none of the Company s properties are in production and, consequently, the Company does not have current operating income.

2. Significant Accounting Policies

On September 25, 2006 the Company sold a 35% interest in the subsidiaries holding its San Cristobal Project to Sumitomo Corporation (Sumitomo) for $224 million in cash and the retention of certain interests in future silver and zinc production. Pursuant to the Company s principles of consolidation under which it consolidates more-than-50%-owned subsidiaries that it controls and entities over which control is achieved through means other than voting rights, the Company fully consolidates the results of operations of its San Cristobal Project and reports Sumitomo s participation as a minority interest. (See Note 11 for further details of the transaction).

Effective January 1, 2006 the Company adopted Financial Accounting Standards No. 123R, Share-Based Payment (FAS No. 123R), using the modified prospective approach, which revised Statement of Financial Accounting Standards No. 123, Accounting for Stock-Based Compensation (FAS No. 123), and superseded Accounting Principles Board (APB) Opinion 25, Accounting for Stock Issued to Employees and its related implementation guidance. The Company is currently evaluating whether it will adopt the short-cut method for calculating the pool of windfall tax benefits as allowed by FAS No. 123R-3. The Company had previously adopted FAS No. 123 effective January 1, 2004. FAS No. 123R requires measurement and recording in the financial statements of the costs of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award, recognized over the period during which an employee is required to provide services in exchange for the award. Additionally, FAS No. 123R requires companies that did not previously include the effects of estimated forfeitures in the FAS No. 123 expenses they reported, to record a cumulative adjustment to the income statements presented in the period of adoption of FAS No. 123R in order to reflect the effect of the estimated forfeitures. The forfeiture rate used by the Company prior and subsequent to the adoption of FAS No. 123R has not changed and, therefore, the Company did not record a cumulative effect adjustment related to prior period estimated forfeitures. The adoption of FAS No. 123R did not have a material impact on the Company s financial position or results of operations (see Note 10).

During March 2005, a committee of the Emerging Issues Task Force (EITF) reached a consensus (EITF Issue No. 04-6) that stripping costs incurred during the production phase of a mine are variable production costs that should be included in the costs of inventory produced during the period that the stripping costs are incurred. The Financial Accounting Standards Board (FASB) ratified the EITF consensus. The EITF consensus is effective for the first reporting period in fiscal years beginning after December 15, 2005. In January 2006, the EITF issued additional guidance defining the commencement of production as the period when saleable minerals are first extracted in greater than *de minimis* amounts. During the first quarter 2006, the Company began mining significant amounts of oxide ore reserves at its San Cristobal project, and placed the ore in stockpiles for future processing. The quantity and value of the minerals mined were sufficient to declare the start of ore production according to the EITF consensus. The Company has commenced the mining and stockpiling of significant amounts of ore at its San Cristobal Project and has included the associated costs as ore inventories on its financial statements.

The Company records costs related to production activities as inventory held for sale in the ordinary course of business or work in process for such sale. Work-in-process inventories include ore produced and stockpiled for which further processing is necessary before a product is ready for sale. The Company uses the average cost method to assign costs to the units of ore stockpiled during the period. Inventories are carried at the lower of cost or the current net realizable value. If costs held in inventory exceed their net realizable value, the excess cost is recognized as a loss in the current period. Net realizable value reflects the gross realizable value (estimated selling price) reduced by estimated costs of completion and disposal as of the balance sheet date. Gross realizable value reflects the anticipated average realization that the inventory will generate when it is sold.

New Accounting Standards

In March 2006 the EITF reached a tentative consensus (EITF Issue No. 05-1) that the issuance of equity securities to settle an instrument that becomes convertible upon the issuer s exercise of a call option should be accounted for as a conversion (as opposed to an extinguishment) if, at issuance, the debt instrument contains a substantive conversion feature other than the issuer s call option. The EITF concluded that if an instrument is deemed convertible at issuance, then a subsequent conversion of the instrument is in accordance with a conversion privilege that existed at issuance and is, therefore, outside the scope of APB Opinion No. 26, Early Extinguishment of Debt. Therefore, the issuance of shares to settle debt pursuant to the original terms of the debt instrument should be afforded conversion treatment. If the instrument does not contain a substantive conversion feature at issuance, the issuance of equity securities to settle the instrument should be recognized as a debt extinguishment. EITF Issue No. 05-1 became effective for interim or annual reporting periods beginning after June 28, 2006, following its ratification during June 2006. The Company previously accounted for two transactions involving the buy-back of its convertible debt as an extinguishment under APB Opinion No. 26. Ratification of EITF Issue No. 05-1 will require similar future transactions be accounted for as conversions.

Financial Accounting Standards No. 154, Accounting Changes and Error Corrections a replacement of APB Opinion No. 20 and FASB Statement No. 3 (FAS No. 154), is effective for years beginning after December 15, 2005. FAS No. 154 changes the requirements for the accounting and reporting of a change in accounting principle. The statement, which applies to voluntary changes as well as changes required by accounting pronouncements that do not otherwise provide specific transition provisions, requires retrospective application to prior period s financial statements where practical. FAS No. 154 did not have a material impact on the Company s financial position or results of operations for the period and is not expected to have a material impact in the future.

In June 2006, the FASB issued Financial Accounting Standards Interpretation No. 48, Accounting for Uncertainty in Income Taxes, (FIN 48), an interpretation of Financial Accounting Standards Statement No. 109, Accounting for Income Taxes. FIN 48 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. The Interpretation requires that the Company recognize in its financial statements the impact of a tax position, if that position is more likely than not of being sustained on audit, based on the technical merits of the position. FIN 48 also provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods and disclosure. The provisions of FIN 48 are effective beginning January 1, 2007 with the cumulative effect of the change in accounting principle recorded as an adjustment to the opening balance of retained earnings. The Company is currently evaluating the impact of adopting FIN 48 but does not believe it will have a material impact on its financial position or results of operations.

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During September 2006 the FASB issued Financial Accounting Standards No. 157 Fair Value Measurements (FAS No. 157). FAS No. 157 defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles (GAAP), and expands disclosures about fair value measurements. This Standard addresses how companies should measure fair value when they are required to use a fair value measure for recognition or disclosure purposes under U.S. GAAP. Accordingly, this Standard does not require any new fair value measurements. FAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007, and interim periods within those fiscal years. The Company does not expect the adoption of FAS No. 157 to have a material impact on its financial position or results of operations.

During September 2006 the SEC issued Staff Accounting Bulletin No. 108 (SAB 108) which establishes an approach to the quantification of unadjusted financial statement errors based on the effects of the error on each of the company s financial statements and the related financial statement disclosures. This model is commonly referred to as a dual approach because it essentially requires quantification of unadjusted errors under both the iron-curtain and the roll-over methods. SAB 108 permits companies to record the cumulative effect of initially applying the dual approach in the first year ending after November 15, 2006 by recording the necessary correcting adjustments to the carrying values of assets and liabilities as of the beginning of that year with the offsetting adjustment recorded to the opening balance of retained earnings. The Company has no unadjusted errors and therefore does not expect the adoption of SAB 108 to have an impact on its financial position or results of operations.

Correction of an Error Related to the Valuation of Open Derivative positions

Pursuant to the requirements of the lenders of its $225 million project finance facility, the Company was required to provide price protection for a portion of its planned production from the San Cristobal project. In the third quarter 2005, the Company entered into silver, zinc and lead derivative positions utilizing primarily forward sales, but also puts and calls, to comply with this requirement. As discussed above, the Company records its open derivative positions at their estimated fair value on its balance sheet and records the change in estimated fair value in earnings at the end of each reporting period.

The Company s derivative positions mature or expire on various dates over an approximate six-year period commencing in July 2007. Many of the derivative positions mature or expire beyond the periods covered by the major commodity price indices such as LME or COMEX, or expire in future periods covered by those indices with respect to which only limited trading activity has occurred. In instances where only limited market activity exists, the Company had historically used price projections to estimate a forward price curve provided by an independent third party employing statistical analysis and models to estimate the fair value of its open derivative positions. The models used by the independent third party relied on commodity price indices out to three months and mean reversion statistical estimates beyond the three month period. Recently, the Company reassessed the market information reflected in the commodities prices indices out to twenty-seven months and quoted prices from the counterparties holding our derivative positions and concluded that the additional market information is a more reliable indicator of fair value than the independent third party price projections previously used. Accordingly, the Company concluded the derivative liability related to its open derivative positions was understated at September 30, 2006 by $300.5 million ($5.38 per share) and December 31, 2005 by $95.1 million ($1.96 per share).

Additionally, correcting the error in the valuation of the open derivative positions impacted the gain and minority interest the Company recognized on the sale of the 35% interests in the subsidiary holding its San Cristobal project, the subsidiary that will market the San Cristobal concentrates and the subsidiary that holds the derivative positions required by the project finance facility. The revised valuation of the derivative positions resulted in the gain on the sale being increased from $119.8 million to $199.6 million.

The following table summarizes the impact of the restatement on the historical balances reported on the Company s consolidated balance sheets for the period ended September 30, 2006:

	September 30, 2006
Derivatives at fair value - current	
As previously reported	$ 14,101
Adjustment	3,726
As restated	17,827
Total current liabilities	
As previously reported	$ 83,941
Adjustment	3,726
As restated	87,667
Derivatives at fair value	
As previously reported	$ 168,140
Adjustment	296,780
As restated	464,920
Total liabilities	
As previously reported	$ 692,992
Adjustment	300,506
As restated	993,498
Minority interest in subsidiaries	
As previously reported	$ 88,403
Adjustment	(69,527)
As restated	18,876
Accumulated deficit	
As previously reported	$ (215,973)
Adjustment	(230,979)
As restated	(446,952)
Total shareholders equity	
As previously reported	$ 451,062
Adjustment	(230,979)
As restated	220,083

The following table summarizes the impact of the restatement on the historical amounts reported on the Company s consolidated statement of operations for the three and nine months ended September 30, 2006 and the inception to date period through September 30, 2006:

	Three Months Ended September 30, 2006	**2005**	**Nine Months Ended September 30, 2006**	**2005**	**For the Period from December 22, 1994 (Inception) Through Sept. 30, 2006**
	(amounts in thousands except per share data)				
Losses on commodity derivatives					
As previously reported	$ (45,432)	$ (9,640)	$ (165,487)	$ (7,584)	$ (220,937)
Adjustment	(74,502)	(70,049)	(205,408)	(70,049)	(300,506)
As restated	(119,934)	(79,689)	(370,895)	(77,633)	(521,443)
Total operating expenses					
As previously reported	$ (51,741)	$ (15,158)	$ (185,904)	$ (26,026)	$ (385,311)
Adjustment	(74,502)	(70,049)	(205,408)	(70,049)	(300,506)
As restated	(126,243)	(85,207)	(391,312)	(96,075)	(685,817)
Gain on sale of interest in subsidiary					
As previously reported	$ 119,800	$	$ 119,800	$	$ 119,800
Adjustment	79,800		79,800		79,800
As restated	199,600		199,600		199,600
Total other income and expense					
As previously reported	$ 124,269	$ 3,061	$ 134,538	$ 6,242	$ 165,053
Adjustment	79,800		79,800		79,800
As restated	204,069	3,061	214,338	6,242	244,853
Gain (loss) before minority interest and income taxes					
As previously reported	$ 72,528	$ (12,097)	$ (51,366)	$ (19,784)	$ (220,258)
Adjustment	5,298	(70,049)	(125,608)	(70,049)	(220,706)
As restated	77,826	(82,146)	(176,974)	(89,833)	(440,964)
Minority interest in loss of consolidated subsidiaries					
As previously reported	$ 257	$ 1	$ 250	$ 12	$ 4,825
Adjustment	(10,273)		(10,273)		(10,273)
As restated	(10,016)	1	(10,023)	12	(5,448)
Net income (loss)					
As previously reported	$ 72,731	$ (12,096)	$ (51,277)	$ (19,772)	$ (215,973)
Adjustment	(4,975)	(70,049)	(135,881)	(70,049)	(230,979)
As restated	67,756	(82,145)	(187,158)	(89,821)	(446,952)
Comprehensive income (loss)					
As previously reported	$ 72,171	$ (12,066)	$ (50,874)	$ (19,899)	$ (215,813)
Adjustment	(4,975)	(70,049)	(135,881)	(70,049)	(230,979)
As restated	67,196	(82,115)	(186,755)	(89,948)	(446,792)
Net income (loss) per Ordinary Share - basic					
As previously reported	$ 1.25	$ (0.25)	$ (0.92)	$ (0.41)	
Adjustment	(0.09)	(1.43)	(2.43)	(1.46)	
As restated	1.16	(1.68)	(3.35)	(1.87)	
Net income (loss) per Ordinary Share - diluted					
As previously reported	$ 1.23	$ (0.25)	$ (0.92)	$ (0.41)	
Adjustment	(0.08)	(1.43)	(2.43)	(1.46)	
As restated	1.15	(1.68)	(3.35)	(1.87)	

The restatements had no impact on the Company s cash or investment balances or cash flows.

3. Investments

The Company considers all highly liquid investments with a maturity of three months or less when purchased to be cash equivalents. The Company accounts for its investments in auction rate securities in accordance with Statement of Financial Accounting Standards No. 115, Accounting for Certain Investments in Debt and Equity Securities such that if the underlying security of an auction rate security has a stated or contractual maturity date in excess of 90 days, regardless of the frequency of the interest rate reset date, the security is classified as a current available-for-sale investment. Short-term investments include investments with maturities greater than three months, but not exceeding twelve months and available for sale auction rate securities. Long-term investments include investments with maturities greater than twelve months.

The Company determines the appropriate classification of its investments in debt and equity securities at the time of purchase and re-evaluates classifications at each balance sheet date. Debt securities are classified as held to maturity when the Company has the intent and ability to hold the securities to maturity. Held to maturity debt securities are stated at amortized cost and include government agency and corporate obligations. Available for sale investments are marked to market at each reporting period with changes in value recorded as a component of other comprehensive income. If declines in value are deemed other than temporary, a charge is made to net loss for the period.

The Company invests only in government and corporate securities rated investment grade or better. The following tables, based on quoted market prices, summarize the Company s investments at September 30, 2006 and December 31, 2005:

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September 30, 2006	Cost (in Thousands)	Market	Balance
Investments:			
Short-term			
Available for sale			
Auction rate securities	$ 246,080	$ 246,094	$ 246,094
Corporate notes	4,873	5,000	5,000
Government bonds	6,440	6,442	6,442
Common stock	761	842	842
Total available for sale	258,155	258,378	258,378
Held to maturity			
Corporate notes	3,601	3,597	3,601
Government bonds	28,764	28,764	28,764
Total held to maturity	32,365	32,361	32,365
Total short term	$ 290,520	$ 290,739	$ 290,743
Long-term			
Available for sale			
Corporate notes	2,000	2,000	2,000
Total available for sale	2,000	2,000	2,000
Held to maturity			
Government bonds	2,000	2,000	2,000
Total held to maturity	2,000	2,000	2,000
Total long term	$ 4,000	$ 4,000	$ 4,000
Restricted Investments:			
Short-term			
Available for sale			
Auction rate securities	$ 75,000	$ 75,000	$ 75,000
Total available for sale	75,000	75,000	75,000
Held to maturity			
Government bonds	26,133	26,039	26,133
Total held to maturity	26,133	26,039	26,133
Total short term	$ 101,133	$ 101,039	$ 101,133

December 31, 2005	Cost (in Thousands)	Market	Balance
Short-term investments			
Available for sale			
Common stock	$ 434	$ 686	$ 686
Bond funds	3,381	2,885	2,885
Auction rate securities	127,426	127,426	127,426
Total available for sale	131,241	130,997	130,997
Held to maturity			
Corporate notes	1,003	998	1,003
Total held to maturity	1,003	998	1,003
Total short term	$ 132,244	$ 131,995	$ 132,000
Restricted Investments:			
Short-term			
Available for sale			
Auction rate securities	$ 14,950	$ 14,950	$ 14,950
Total available for sale	14,950	14,950	14,950
Held to maturity			
Corporate notes	2,003	2,004	2,003
Government bonds	50,538	50,191	50,538
Total held to maturity	52,541	52,195	52,541
Total short term	$ 67,491	$ 67,145	$ 67,491

Long-term			
Held to maturity			
Government bonds	$ 12,392	$ 12,173	$ 12,392

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