Stockbrokers Association of Australia
Incorporating SDIA

5 July 2010

Ms Marian Kljakovic
Corporations and Financial Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Ms Kljakovic,

MARKET SUPERVISION REGULATIONS

- ***Treasury Consultation and Exposure Draft Corporations Regulations May 2010 (Infringement Notice regime; Transitional matters; consequential changes): Submission dated 11 June***
- ***Draft Corporations (Fees) Amendment Regulations 2010: Submission dated 28 June 2010***

Thank-you for contacting us last week in relation to the Submissions we recently made on the above two sets of draft Market Supervision Regulations. The purpose of this letter is to follow-up on your initial responses and set out our expectations of the next steps.

A. *Treasury Consultation and Exposure Draft Corporations Regulations May 2010*

Action against individuals: we are pleased to hear that our Members' concerns about ASIC's powers against individuals, including fines up to $1 million, have been noted and that there is some prospect that the powers will be reconsidered. We look forward to hearing further on this.

B. *Draft Corporations (Fees) Amendment Regulations 2010*

NGF funding issue: as outlined in our Submission, Members are concerned at plans for ASX to be able to use the National Guarantee Fund to pay its market supervision fees levied by ASIC. We discussed the background to our concerns and you were kind enough to provide some of the information sought in our submission last week.

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We note that you are unable to give details of the actual amounts to be drawn-down from the NGF and whether such amounts will constitute some or all of the amounts ASX must pay ASIC. We will consider contacting ASIC and/or ASX for further information.

We also note that it is apparent that the savings by ASX and SFE in market surveillance costs after the transfer of supervision to ASIC will not be as great as first thought, and will not be sufficient to offset the cost of market surveillance to be levied by ASIC on ASX.

While the Regulations only cover the period until the end of the 2010-11 Financial Year, plans are for NGF funding of ASX's obligations to be provided for the 2010-11 and 2011-12 Financial Years only. After these 2 years, the market operator will have to bear the cost.

While Treasury is of the view that this funding is a proper purpose for NGF funding under the current law, adjustments to Regulation 7.5.88 are being considered to remove any doubt. We look forward to receiving details of those 'adjustments' so our Members can further consider their position.

Other market operators: if any new market operator wished to be covered by the NGF, it would have to negotiate with ASX/SEGC directly. We discussed a preferred position where SEGC and the administration of the NGF were made truly independent of ASX.

We discussed the position post-NGF funding, where the cost would be borne by ASX, which would likely pass it on to Members. We will look at comparable overseas models and revert.

The National Guarantee Fund remains one of the cornerstones of investor protection in Australia. The plan to draw-down on the Fund to pay for what would otherwise be ASX expenses has evoked some interest and concern from our Members. We merely wish to see that such a move is properly based.

We look forward to viewing the proposed amendments to the Fees Regulations which may facilitate the move to draw-down NGF funds in due course.

Yours sincerely,

David W Horsfield
Managing Director/CEO