21 April 2011

Mr Geoffrey Leveritt
Senior Lawyer
Strategic Policy
Australian Securities and Investments Commission
GPO Box 9827
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By email: policy.submissions@asic.gov.au

Dear Mr Leveritt

ASIC Consultation Paper CP 147 – Hedge Funds: Improving Disclosure for Retail Investors

Introduction

The Stockbrokers Association of Australia Limited ('the Stockbrokers Association'), the peak industry body representing institutional and retail stockbrokers and investment banks in Australia, is pleased to provide this submission to ASIC in relation to Consultation Paper CP 147 – *Hedge Funds: Improving Disclosure for Retail Investors.*

The Association's members have a strong commitment to maintaining the integrity and high standing of Australia's markets and the protection of investors.

In the period since the market downturn of 2008-9, it became clear that some of the worst effected investors were those involved in complex, structured and/or leveraged products. Indeed the GFC is generally attributed to the failure of complex OTC products like Collateralised Debt Obligations and those products underpinning them, like Credit Default Swaps.

As mentioned in the *Consultation Paper*[1], an increasing number of retail investors – including self managed superannuation funds - are investing in hedge funds. In the post-GFC world, it is natural that investors and their advisers would be attracted by the higher than normal returns sometimes on offer from these products.

However, where unsophisticated investors become involved in these more complex or risky products - especially hedge funds characterized by investment in non-mainstream asset classes and OTC products, using alternative trading strategies, high leverage, short selling and/or derivatives - there is the need to improve the quality of disclosure of those products.

Disclosure in itself is not always the solution. There are products that are so risky that they should not be able to be marketed to retail investors at all. For example, jurisdictions like the United States take this approach with Contracts for Difference, which is different to the United Kingdom (where they were created by spread bookmakers to overcome stamp duty issues) and Australia (which has adopted a licensing and disclosure approach for CFD issuers).

We agree with ASIC that in order to be effective, disclosure needs to address the fundamental features and risks of a product, so that investors and their advisers can make properly-informed investment decisions.

The proposals to improve disclosure in relation to hedge funds are therefore timely and welcome.

Thank-you once again for the opportunity to comment on these proposals.

Should you require any further information, please contact Doug Clark, Policy Executive, on (02) 8080 3200 or email dclark@stockbrokers.org.au.

Yours sincerely,

David W Horsfield
Managing Director/CEO

[1] *CP147* page 7 paragraph 3