



Stockbrokers

Association of Australia

Incorporating SDIA

ASIC Consultation Paper 171: *Strengthening the regulation of research providers (including research houses)* 14 November 2011

Submission by the Stockbrokers Association of Australia

9 February 2012

Executive Summary

- ***Policy needs to distinguish between ratings agencies and market participants***
ASIC's policy would apply too broadly to any research provider, ratings agency or research house. Research of listed product by Market Participants ought to be treated differently to the activities of 'ratings agencies', as has been the subject of the inquiry into the activities of Trio Capital. Market Participants are not engaged by, nor do they get paid by the Issuer to rate or research their products. Market Participants produce research – independently of the Issuer - from their own resources in order to add value to the service they give clients. Most of the regulatory issues identified in this area arose from situations where the Issuer paid a research provider or ratings agency for researching or rating its products. This needs to be distinguished from the exchange traded market participant context.
- ***Existing ASIC Policy is sufficient***
The guidance provided by RG79 remains relevant and helpful to licensees in fulfilling their existing requirements, particularly the requirement to manage conflicts of interest.
- ***Proposed Guidance too prescriptive***
The proposed guidance, including the requirement to lodge compliance reports, is too prescriptive. Our Members already have robust arrangements in place to produce high quality research free of conflicts. ASIC should not use guidance to introduce new requirements. Particular proposals, such as those relating to rotation of analysts, public distribution, expiry dates, training and methodology are burdensome, irrelevant and will not lead to clients receiving better research.

INTRODUCTION

The Stockbrokers Association of Australia is pleased to provide the following comments on ASIC Consultation Paper 171.

We note that ASIC is proposing to ‘...refine and supplement...’ its guidance in RG 79 to address some issues arising from its recent review of the research sector. Our Members are concerned at the extent of such refinement and supplementation. We also question the need for these additional measures, especially in relation to Market Participants.

While ASIC’s policy will apply broadly to any research provider, our comments will concentrate on research produced by our Members, which are stockbroking firms and investment banks. Accordingly, we are only concerned with **Market Participants**, whose standards and regulation are already at a higher level than non-Market Participants. In doing so, we are strongly of the view that research of listed product by Market Participants ought to be treated **differently** to the activities of ‘*ratings agencies*’, as has been the subject of the inquiry into the activities of **Trio Capital**.

The most important difference between ratings agencies and Market Participants is that normally **Market Participants are not engaged by, nor do they get paid by the Issuer** to rate or research their products. Market Participants produce research – **independently of the Issuer** - from their own resources in order to add value to the service they give clients. Most of the regulatory issues identified in this area arose from situations where the Issuer paid a research provider or ratings agency for researching or rating its products. This needs to be **distinguished** from the exchange traded market participant context.

Before responding to the specific questions in CP171, we would first like to make some general points.

GENERAL POINTS

1. RG79 is Sufficient

In our Members’ view, the current framework of RG79 remains appropriate for Equity, Debt, Credit and Economic Research. It served investors well during the GFC, and to our knowledge there were no significant conflicts of interest issues or market failures arising from this type of research being produced. However, we understand that it is ASIC’s view that conflicts of interest related to the failure of some investment products from houses that provide assessments, opinions, recommendations or ratings for managed investment and structured investment products by arrangement with the Issuer could be improved. Therefore, in our submission, the **regulatory environment must distinguish** between research report providers for managed investment and structured investment products, and other research report providers, particularly those like our Members who produce research on listed products.

The higher standards of our Members are borne-out by the fact that there has been a consistent trend of reduction in number of complaints to FOS about stockbrokers. The most recent figures for the 2011 Financial Year show only 66 out of the 1886 complaints regarding investments were made against stockbrokers.

The publication of a separate Regulatory Guide for research reports on **managed investment and structured investment products** would also instil confidence in Australian investors that the current framework of RG79 was, and remains, appropriate for other types of research that has protected investors even over the last few difficult years. This would also be consistent with the recent approach adopted by ASIC in relation to Agribusiness scheme disclosure¹.

2. Does not take proper account of Research practices already employed by Investment Banks and Stockbrokers

ASIC and Treasury's 2008 review of credit rating agencies and research houses did not cover research prepared and provided by investment banks and stockbrokers² (i.e. Market Participants).

The latest review in the lead-up to the issue of CP171 does not appear to have focussed on Market Participants, but nevertheless ASIC appears to be minded to update its regulatory guidance for *all* providers of research. In doing so, ASIC does not appear to have taken into account the practices that have evolved in Market Participants. The focus of ASIC's attention ought to be the types of firms whose research practices are less well developed from an integrity viewpoint, in order to lift their standards. To treat all providers the same will add an unnecessary regulatory burden to those firms that do not raise any regulatory concern.

ASIC's consideration does not appear to have taken into account the regulatory impact of its proposals on well established (and often) globally defined research publication models and consistent research publication practices, or more generally the impact on a sector already very much heavily regulated (both locally and if they are Global, globally).

Large parts of the industry are complying with the principles espoused in the existing RG79. RG 79 may not have received attention and focus at the time of issue or subsequently either from ASIC or research houses, indeed ASIC does not seem to be looking to displace the principles espoused in the current RG but rather is seeking to add prescriptive requirements in the form of Compliance Reports, driven largely by a focus on relatively poor research practices in certain ratings agencies. In doing so, ASIC is measuring against the wrong standard and potentially looking to raise the standard unnecessarily, rather than lifting poor practice to good practice. The **answer** is probably more detailed guidance about what good

¹ ASIC Advisory 12-09AD *ASIC releases investor guide and disclosure guidance for agribusiness schemes* 30 January 2012

² REP 143 *Review of credit rating agencies and research houses - A joint report by The Treasury and the Australian Securities and Investments Commission*, October 2008, paragraph 96 page 23.

practice is, rather than prescriptive requirements which mean that every research provider has a list of regulatory requirements that need to be met and managed.

3. Too Prescriptive

What an individual licensee needs to do to comply with the obligation to manage conflicts of interest varies according to the nature, scale and complexity of its financial services business. ASIC's approach should also vary from a regulatory intervention standpoint. Any new requirements should be better tailored to the relevant sector, so that, for example, Market Participants providing research on listed products are treated differently to research houses providing research on managed funds and structured products.

4. 'Guidance' should not impose new requirements

The proposal to make the biannual Compliance Report a requirement of research providers is reminiscent of attempts by ASX to prescribe requirements in 2002 similar to the prescriptive US (NYSE) requirements implemented after the dot-com boom of the late 1990's³. The ASX requirements ultimately did not proceed, but instead the matter was addressed by the Government implementing the principles-based **conflicts management** requirement of the *Corporations Act*⁴ upon which ASIC then gave policy guidance⁵. As a matter of principle, it is not appropriate to embed significant regulatory requirements in statements of ASIC's policy. It avoids proper review and consideration – not to mention the legislative process – and may be open to challenge. It is of assistance to participants to know ASIC's views on compliance, but it is another thing altogether for those views to be elevated to the status of regulatory requirements.

³ ASX Draft Business Rule Guidance Note *Independence Of Research, Disclosure Of Conflict Of Interest & Dealing Before Research Recommendations* Draft 18 Sept 02

⁴ s.912A(1)(aa) - enacted by the *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004* ('CLERP 9')

⁵ PS181 *Licensing: Managing conflicts of interest* Issued 30 August 2004 – reissued as RG181 5 July 2007

FEEDBACK ON CP171 QUESTIONS:

CP171 Ref.	Stockbrokers Association Comment:
B1	<p><i>Proposal to retain the definitions of ‘research report’ and ‘research provider’</i></p> <p>ASIC propose to retain the definitions of ‘research report’ and ‘research report provider’ in RG 79.</p> <p><i>B1Q1 – Do you agree with this proposal?</i></p> <p>ASIC’s definition of ‘research report’ in RG 79 is general advice that:</p> <ul style="list-style-type: none"> (a) is in writing; (b) includes an express or implicit opinion or recommendation about a named or readily identifiable investment product; and (c) is intended to be, or could reasonably be regarded as being intended to be, broadly distributed (whether directly or indirectly) to clients (whether wholesale or retail) in Australia. <p>It does not include any of the following:</p> <ul style="list-style-type: none"> (a) general advice that is provided only to an individual or small number of related clients (e.g. a family); (b) general advice that is provided only to related bodies corporate of the licensee; (c) general advice that is only about products issued by the licensee or its related bodies corporate; (d) a communication or piece of information that does not constitute general advice; (e) advice that does not contain any express or implied opinion or recommendation to buy, sell or hold a named or readily identifiable investment product; (f) advice is that is merely a re-statement, summary or extract of another research report that has already been broadly distributed (whether in Australia or elsewhere and whether by the licensee or another person); (g) personal advice; or (h) advice that is not provided in Australia. <p>In general, research report providers (including research houses) provide an assessment of financial products and make recommendations concerning those financial products to assist both financial advisers and potential investors, to make an informed investment decision. Reports may be provided to the public, or just to subscribers (who may be wholesale clients, retail clients or both).</p> <p>RG 79 (<i>Background 1.3</i>) states:</p> <p><i>For the purposes of this guide, and subject to paragraph 1.4, a research report</i></p>

CP171 Ref.	Stockbrokers Association Comment:
	<p><i>provider is a licensee that provides research reports to other persons (clients). This includes the situation where the licensee causes or authorises another person (such as an authorised representative of the licensee) to provide research reports to other persons (clients). A person that does not hold an Australian financial services (AFS) licence is not a research report provider for the purposes of this guide.</i></p> <p>NB: <i>If a research report prepared by one licensee (A) is provided to other persons (clients) by another licensee (B) then, for the purposes of this guide, A is the research report provider, and not B (regardless of whether B puts its own name on the research report), but only where:</i></p> <ul style="list-style-type: none"> <i>(a) A's licence covers the provision of the financial service;</i> <i>(b) A causes or authorises B to provide the advice contained in the research report to other persons; and</i> <i>(c) no material changes to the advice contained in the research report are made by B.</i> <p><i>Where any of these conditions is not met, B will be the research report provider. In any event, it is important to note that both A and B must consider the obligation to comply with the conflicts management obligations and should...be guided by RG181.</i></p> <p>ASIC's primary interest set out in CP171 is in those firms who provide assessments, opinions, recommendations or ratings for managed investment and structured investment products. Therefore, the definition of 'research provider' should be updated with a separate definition for firms that publish research and guidance on managed investment and structured investment products. Alternatively a separate Regulatory Guide should be published for these types of research providers to avoid any confusion.</p> <p>There should be a general qualification stating that whether something constitutes a Research Report should rely on the circumstances in which the general advice is provided and individual facts of the communication.</p> <p>ASIC itself in the CP states that research report providers provide an assessment of financial products and make recommendations concerning those financial products to assist both financial advisers and potential investors, to make an informed investment decision. It should follow that a Research Report need involve an assessment of a financial product or products. Assessment connotes an evaluation or appraisal or determination of value (or relative value). This is not something contemplated in ASIC's current definition.</p> <p><i>B1Q2 – Should these definitions be extended to include research on other products?</i></p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>No, the existing framework is appropriate in addressing conflicts of interest, and these definitions should not be extended to research on other products.</p> <p><i>B1Q3 – Should these definitions be extended to include research that does not amount to advice?</i></p> <p>No, there is lower potential for conflicts of interest in research reports that do not amount to advice. Further, the extension of this definition to research that does not amount to advice may have unintended consequences. Where such a proposal is thought of, further investigations on the impact of such an extension should first be undertaken to assess who would be affected by such a proposal.</p> <p><i>B1Q4 – Does this proposal raise any practical problems for licensees who distribute research originally prepared by another licensee?</i></p> <p>As stated in RG79 it is important that both the author of the research (A) and the licensee who provides the research to the client (B) consider the obligation to comply with the conflicts management obligations. Disclosure becomes the important point and as such provided that any conflicts are disclosed, whether they attach to A or B, they are disclosed. It should be sufficient that they are generically disclosed, rather than being attributed to A or B.</p> <p>ASIC in these circumstances should acknowledge that the research provider is the licensee that provides the research (B), whilst recognising that the conflicts management obligation applies to both the provider (B) and to the author/preparer (A), with the final research product needing to contain disclosures (or ultimately non-publication if the conflict cannot be managed and needs to be avoided). Often affiliated companies of our Members write the research. Our Member (B) acknowledges that the research is prepared in association with the affiliate (A), but takes it as its research and would consider itself (B) to be the provider, applying controls over publication and adding the necessary disclosures. This should be the expectation on distributors and redistributors. Who is the provider shouldn't be the emphasis; what should be emphasised is the existence of alternative models, but that the fundamental obligations remain.</p>
B2	<p><i>B2Q1 - Should credit ratings be included in the definition of 'research report'?</i></p> <p>We do not have any comments on this proposal.</p>
B3/B4	<p><i>B4Q1 – Should research providers be required to lodge a compliance report with ASIC?</i></p> <p>ASIC proposes that research report providers lodge a compliance report with ASIC every two years '<i>...to report on their compliance with the law and our</i></p>

CP171 Ref.	Stockbrokers Association Comment:
	<p><i>guidance in this area.</i>' This indicates that ASIC is endeavouring to compel compliance with its <i>policy</i>, not just the law.</p> <p>The proposed bi-annual compliance report to be lodged with ASIC, would cover-</p> <ul style="list-style-type: none"> • research methodology and processes • conflicts management processes • disclosure of conflicts, and conflicts policy, to clients • publication and distribution of research • staff training, • managing quality of research, including sign-offs and disclosures, and • compliance and risk management. <p>We do not think all research providers should be required to lodge a compliance report with ASIC. This obligation would create an unnecessary burden on research report providers with an outcome that would potentially add little value to investors. The additional costs involved in producing a compliance report would ultimately be passed on to investors and this cost may outweigh the value the regulator obtains with receiving such compliance reports from the research report providers.</p> <p>This adds an unnecessary regulatory burden for licensees that already have adequate arrangements to manage and deal with the conflicts discussed by ASIC. Our Members already follow high standards for research distribution and compliance would be hindered by an additional prescriptive regulatory burden. ASIC states that by complying with comparable foreign rules and standards that we will already be acting consistently with most of ASIC's guide. This will mean that our Members with Global parents will need to analyse their already strict requirements and determine what ASIC requirements will apply. This would not be a worthwhile exercise.</p> <p>The problem here is low standards in some (less-regulated) sectors of financial services, and this is where the regulatory emphasis should remain rather than imposing administratively burdensome processes that provide no real enhanced compliance response from licensees that have already employed significant resources to deal with the issues raised and noted by ASIC, and the law reform, over the period of the last 10 years, which was the regulatory response to the dot.com issues of the late 1990's.</p> <p>CONTENT OF THE COMPLIANCE REPORT</p> <p>We wish to make the following comments on the matters proposed to be covered in the Compliance Report:</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>a. Distribution of Research (CP171.94)</p> <p>ASIC notes at CP171.94 & CP171.95 –</p> <p>The IOSCO Code states: <i>Except for —private ratings provided only to the issuer, the [agency] should disclose to the public, on a non-selective basis and free of charge, any rating regarding publicly issued securities, or public issuers themselves, as well as any subsequent decisions to discontinue such a rating, if the rating action is based in whole or in part on material non-public information.</i> <i>We consider that this is a suitable standard to guide research report providers and should apply to those that issue research about financial products that are available to the public. However, we understand that many research report providers do not typically make their research available to all members of the public, but rather paying research subscribers.</i></p> <p>The adoption of the above IOSCO guideline is inappropriate, and largely irrelevant in the context of Market Participants. Market Participants expend significant resources in the production of research. It is produced as a service to clients, not to inform the public. Market Participants are not in the habit of releasing research that is based ‘...<i>in whole or in part on material non-public information</i>’. The implications of doing so are obvious, and very serious in the exchange-traded context, including the impact of the insider trading provisions. For this reason, non-selective, free public disclosure should not be a requirement for Market Participants. Continuous disclosure is the duty of listed companies, not Market Participants.</p> <p>b. Rotating Analysts (CP171.96)</p> <p>Rotation of analysts is recommended by ASIC in order to ‘...<i>reduc(e) the risks of a research analyst becoming too familiar or close to the products and the issuers of the products they are reviewing, which may give rise to conflicts of interests.</i>’</p> <p>If rotation does not occur, ASIC proposes that in the Compliance Report, the licensee must explain why not, and how conflicts are avoided.</p> <p>Again, in the Market Participant context, this proposal is unworkable. Analysts are employed purely because they are ‘<i>familiar or close</i>’ to the companies they analyse. They add value because of their insights and analysis into the relevant company. There are strong controls to ensure that they do not work on the basis of inside information or other information improperly obtained, and that their opinions are soundly based. For example, to expect a stockbroking firm or investment bank to rotate a highly-rated mining analyst into the area of banking is ridiculous.</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>c. Publishing Distribution of ratings, positive v. negative</p> <p>CP171.127 states -</p> <p><i>127 Research report providers should publish the spread of their ratings (i.e. how many products or what percentage received each type of rating during the relevant period). This will give users of their reports another tool to gauge the quality and reliability of a particular research report provider.</i></p> <p>This was a requirement enacted by the NYSE/NASD after the problems that emerged in the dot.com boom in the late 1990's. The problem is that it depends on the market e.g. the whole market (or sector) may be rising or falling, giving rise to an uneven distribution of ratings.</p> <p>The issue seems to arise where the issuer of the product pays for the research, which doesn't apply to Market Participants.</p> <p><i>B4Q2 – Should the compliance report be lodged every 2 years, more or less frequently, or as requested by ASIC?</i></p> <p>If ASIC decides that compliance reports are warranted, this obligation should only be required for certain 'high risk' research houses i.e. those with considerable potential for conflicts of interest in the production of research. Such a report should only have to be produced on request from ASIC, as it deems appropriate to obtain comfort. Indeed, ASIC could use its existing powers to obtain this information from licensees.</p> <p>Whilst dealing with this sort of obligation would most likely create more of a one-off burden (as arrangements probably won't change significantly year to year), it nevertheless is something that is probably unnecessary for Market Participants given their experience, higher regulation, and a general lack of identified issues with research in the sector.</p> <p><i>B4Q3 – Should the compliance report apply to all research report providers or a sub-category?</i></p> <p>ASIC has advised that the consultation paper is a result of investigations into research houses providing research for structured investments and managed investments. In our opinion, the requirement for a compliance report should be restricted to those research houses that ASIC is specifically targeting as part of these changes to RG79 (i.e. research houses that produce research on structured products or managed investments) under an arrangement with the Issuer. If this requirement were introduced it would be sensible for to differentiate the requirements of research provided to retail clients compared to that offered to wholesale clients. Research report provided only to wholesale</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>clients should not have to provide reports as there is less of an argument regarding investor protection.</p> <p>We also note that there could be some difficulties in complying with the formatting of the report. For example limiting each section to 4 pages may not be desirable. Providing hyperlinks may be desirable for ASIC but not practical for the licensee.</p> <p><i>B4Q4 – Should the compliance report not be a licence condition, but rather a ‘best practice’?</i></p> <p>Where ASIC requires such a report, it should be required on a ‘on request’ basis. It should not be a licence condition to produce a compliance report.</p> <p><i>B4Q5 – Should research report providers be expected to report against all of the key issues in RG79?</i></p> <p>If ASIC has concerns about a particular research report provider and specifically requests a compliance report, then research report providers should report against the key issues in RG 79.</p> <p><i>B4Q6 – Should aspects of the report be made publicly available?</i></p> <p>No. Research Houses producing equity, debt, credit and economic research are already required to disclose certain matters of a material nature. The compliance reports – if implemented - should be for ASIC’s purposes only as there may be information in the reports that is confidential and commercially sensitive to the particular Research House. Making this information publicly available could be disadvantageous to the Research House. It would not add any material value to the normal investor and would not assist them in making an informed assessment on how conflicts are managed by the Research House.</p> <p>Additionally, an investor would not usually be in a position to assess the appropriateness of a compliance framework where information about that framework is disclosed in a compliance report. For this reason we do not see how making this information publically available will add any value.</p> <p><i>B4Q7 – How much would it cost to prepare the compliance report?</i></p> <p>An estimate cannot be provided as it would depend on the particular circumstances of the relevant research house and information being required.</p>
C1	<p><i>C1Q1 – Do you agree with segregation of business units?</i></p> <p>In principle, segregation of business units from research houses producing</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>equity research from other areas of the business is appropriate. It is an already an important part of the licensee's existing conflicts management obligations. However, it is important that there should be a degree of flexibility, and that ASIC policy should take into account the different business models, and the nature, scale and complexity of the research provider's business. For example, in smaller firms it may not be possible to physically separate their research function from other parts of the business. RG79 acknowledges this, and ASIC policy should continue to do so.</p> <p><i>C1Q2 – What, if any, further guidance is needed for physical and electronic separation?</i></p> <p>RG79 already notes the importance of robust segregation of research businesses from other business units. RG79 does allow for some flexibility for those research providers who may not have the capacity to fully separate a research function from other functions. All firms are acutely aware of proper arrangements where material, non-public information is handled.</p> <p><i>C1Q3 – Should research report providers refrain from publishing research about products that are competitors with products issued by the research report provider?</i></p> <p>The focus should be on maintaining and upholding the independence of research analysts and focussing on the quality of research that is produced. Where independence of the research function is given, an explicit prohibition on research on competitor products should not be required. Also, this perceived conflict could be managed through appropriate disclosure.</p> <p>We also note that this potential restriction may be prejudicial to certain industries such as the banking sector that may produce research on their competitors, and to clients who require research on key sectors.</p> <p><i>C1Q4 – Are there any situations where a robust agreement with product issuers is not appropriate or possible? What procedures are necessary to ensure reliability of research in such cases?</i></p> <p>We do not have any comments on this proposal.</p> <p><i>C1Q5 – Do you agree with ASIC's proposal on making research available for a reasonable period of time?</i></p> <p>No – Research houses producing equity, debt, credit or economic research will publish all research whether or not it is adverse or negative from the perspective of an issuer. This type of research will be available for such time until the Research Analyst changes their view on the particular issuer which may</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>be more or less than a 30 day period. If there is a corporate action or announcement during the 30 day period, the research may also need to be reissued or reviewed. This type of research (including adverse or negative research) is made available to all subscribers.</p> <p>We are not aware of research availability being an issue for investors. Unless there is a clear evidence of problems in this area it would be best not to prescribe the amount of time research is available. This is an area not in need of a regulatory response.</p> <p><i>C1Q6 – What other internal procedures are necessary for managing potential conflicts of interest?</i></p> <p>Internal procedures necessary for managing potential conflicts of interest are already managed in accordance with the obligations set out in RG79 and the law. Every firm considers the services it provides and which disclosures or controls are necessary to manage specific conflicts.</p> <p>(See also B4Q1 above on Distribution of Research, Rotating Analysts and Publishing Distribution of ratings, Positive v. Negative, etc.)</p>
C2	<p><i>C2Q1 – In what ways can conflicts associated with issuers paying for research be robustly and effectively managed?</i></p> <p>Management of this potential conflict is best achieved through disclosure of costs and any material disclosures of conflicts of interest (for example any relationships the research house has with the issuer). This disclosure should be prominent for the reader of such a report.</p> <p><i>C2Q2 – Is avoiding conflicts associated with issuers paying for research the most appropriate way to manage them?</i></p> <p>No, it is established business practice that issuers (providing structured investments and managed investments) will pay for research to be prepared on their products. Imposing a restriction on issuers paying for research on their products will impact the issuer’s ability to sell their products as advisers and end users will be unwilling to pay for research themselves.</p> <p>Where advisers or clients were to bear the cost of research, the risk would increase that advisers may reduce the range of products they would take into consideration due to cost reasons. They may only be willing to advise on products for which their employer had instructed a research house to review such product. Due to the costs involved with assessing such a product, advisory firms may be inclined to instruct reviews of only a few select products. This in turn would increase the risk for investors that they may not receive the ‘best</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p>product' for their circumstances.</p> <p>It is likely that if clients are made to bear these costs, the ability for clients to access quality advice and information is impeded. In light of the rationale for FOFA reforms, this outcome may not be desirable.</p> <p>C2Q3 – Are there any instances where avoiding such conflicts is not possible?</p> <p>Please note C2Q2 above. Avoiding paying a research house may not be possible when other end users are unwilling to pay these costs.</p>
C3	<p>C3Q1 – Do you agree with the proposal to update RG 79 to provide guidance that the research report providers (including research houses) should disclose in plain English a summary of how they manage conflicts of interest?</p> <p>Our Members question the utility of providing this sort of guidance to clients - especially wholesale clients - and see such information as superfluous and of little value to the client.</p> <p>The issue would be the detail and the level of information that would be required to be provided. More prescriptive requirements, when combined with the disclosures and publication requirements referred to later in CP171, would mean that there is going to be a very material amount of information that will have to be disclosed and maintained by research report providers.</p> <p>C3Q2 – What other types of disclosures are necessary for managing potential conflicts of interest?</p> <p>In our opinion the disclosures currently set out in RG79 are adequate.</p>
D1	<p>D1Q1 – Do you agree with the proposal to update RG 79 to remind research report providers (including research houses) that they should</p> <ul style="list-style-type: none"> • ensure their (human and other) resources are adequate to allow them to effectively analyse the financial products covered; and • Adequately train and supervise their analytical staff including implementing a proper sign-off process. <p>It is our understanding that most reputable research houses, particularly those covering equities research, already adhere to these proposals as a matter of best practice, ensuring their research is of high quality. This is particularly the case with Market Participants. The quality of their research is a key commercial driver and therefore standards are high. Poor research can impact the business dramatically.</p>

CP171 Ref.	Stockbrokers Association Comment:
	<p><i>D1Q2 – what (if any) other guidance should be given to include the quality of research?</i></p> <p>Please refer to the response in C3Q1.</p> <p><i>D1Q3 – What (if any) additional guidance should ASIC given on staff training and experience?</i></p> <p>All licensees must ensure that their staff are adequately trained. Research Analysts tend to be some of the most highly trained and qualified people in the stockbroking industry. The training requirements which are appropriate to each research report provider should be at the discretion of that provider. Depending on the type of research produced, there will be different staff training requirements. For example, those research staff writing research on companies will require different training than those research staff providing a rating on structured products.</p>
D2	<p><i>D2Q1 – Do you agree with the proposal to update RG 79 to provide guidance that research report providers (including research houses) should make the following information publicly available and direct readers to this information in each research report ie:</i></p> <ul style="list-style-type: none"> • <i>the nature of research service they offer and their areas of expertise,</i> • <i>a list of all financial products currently covered,</i> • <i>the spread of rating each financial year, and</i> • <i>a comparison of the performance of products given each level of rating or recommendation against relevant benchmarks.</i> <p>These requirements are not practical for research houses producing equity, debt, credit and economic research, and should only be applicable for ‘pure’ research houses or ratings agencies.</p> <p>Global Investment banks (and stockbrokers more generally who follow similar practices to varying levels) already focus very heavily on the independence and quality of equity research and research analysts.</p> <p>(See also our comments on the Content of Compliance Reports at B4Q1.)</p> <p><i>D2Q2 – What other disclosure practices would be helpful in improving the quality of research reports?</i></p> <p>Our Members already disclose and manage conflicts in research. There is no demonstrable issue with the research function in Market Participants that has not already been addressed over the last 10 years by law reform or ASIC policy.</p>

CP171 Ref.	Stockbrokers Association Comment:
E1	<p>E1Q1 – Are there any practical problems with adopting and publishing robust research methodology?</p> <p>ASIC proposes to update RG 79 to give guidance to research report providers on robust methodology for assessing or rating products.</p> <p>In relation to equities or debt research, our Members already have robust methodology, which may be confidential to the particular research house. All research houses already have a requirement to ensure that their research is based on reasonable grounds and for a proper purpose in any event. It would not be appropriate to ASIC to enter into such a technical and commercially sensitive area.</p>
E2	<p>E2Q1 – Do you agree with the proposals below? Updating RG 79 to give guidance that research report providers (including research houses) should</p> <ul style="list-style-type: none"> • ensure each piece of research expresses an unambiguous view on each product researched and uses clear, transparent and easily understood language, • where research ratings are based on past performance, ensure the report carries a past performance warning, • for each research report include a ‘use by date’ and a warning that the research should not be relied upon after this time; or • monitor and update the report periodically and also in response to significant developments affecting a particular product or issuer; and • ensure that each research report clearly and prominently states who commissioned it and paid for it. <p>This is not practical or applicable to our Members, or research houses which do not publish research on structured products or managed investments.</p>
F1	<p>F1Q1 – Are there any practical difficulties you envisage that would follow our proposed guidance?</p> <p>(Please see our responses at B3/B4 as to unnecessary regulatory burdens.)</p> <p>F1Q2 – should ASIC’s guidance to users be contained in RG79 or one of the regulatory guides for financial advisers?</p> <p>If this requirement were to be implemented, it should be included in a financial advisory regulatory guide, rather than a research-related regulatory guide. We also reiterate that research of listed product ought to be treated separately to managed or structured products, and is already adequately addressed for Market Participants in the law, the ASIC <i>Market Integrity Rules</i> and ASIC Policy.</p>

We are grateful for the opportunity to comment on these proposals, and wish to thank-you once again for making your officers available to discuss these proposals with us and our Members.

Should you have any inquiries, please contact me (dhorsfield@stockbrokers.org.au) or Doug Clark, Policy Executive (dclark@stockbrokers.org.au).



David W Horsfield
Managing Director/CEO
STOCKBROKERS ASSOCIATION OF AUSTRALIA
9 February 2012