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17 April 2009

Mr David Lawrence  
General Manager, Participants  
ASX Limited  
Exchange Centre  
20 Bridge Street  
Sydney NSW 2000

Dear Mr Lawrence,

## **Partly Paid Securities - ASX Circular 098/09 6 April 2009**

The Securities & Derivatives Industry Association would like to present the concerns of a number of its Retail Members in relation to the recent changes to partly paid securities announced in the above circular, namely the new requirement to have retail clients sign a client agreement (risk disclosure statement) prior to the first order being taken in partly paid securities.

I note that the changes announced on 6 April 2009 were stated to achieve the objective of '*enhanced investor awareness*' in relation to partly paid securities. Due to the unfortunate trading situation that has existed for some time in relation to BrisConnections, our Members are already acutely aware of the need to ensure that investors are made aware of the obligations attached to these instruments, and have already begun taking measures through information and/or restrictions on trading to assist clients to avoid unwittingly taking up excessively high obligations.

The decision by ASX (in conjunction with ASIC<sup>1</sup>) to require retail brokers to have client agreements for partly paid securities is presenting real operational difficulties in the very short lead-up to implementation on **1 May 2009**.

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<sup>1</sup> ASIC and ASX act to protect retail investors of partly paid securities ASIC Advisory 09-57 6 April 2009

The ASX Circular sets out 5 issuers currently affected by the new requirement:

Issuer	ASX Code	Description Short	Description Abbreviated	Description Full
BRISCONNECTIONS UNIT TRUSTS	BCSCA	CTG	\$1.00 PD, \$2.00 UNPD	STAPLED SECURITY PAID TO \$1.00, \$2.00 UNPAID
CITADEL RESOURCE GROUP LIMITED	CGGCC	CTG	17.5C PAID 2.5C UNPD	ORDINARY PARTLY PAID TO 17.5C, 2.5C UNPAID
MULTIPLEX PRIME PROPERTY FUND	MAFCA	CTG	UNITS 60C 40C UNPD	ORDINARY UNITS PARTLY PAID TO 60C 40C UNPAID
SOLAGRAN LIMITED	SLACA	CTG	10C PD, 10C UNPD	ORDINARY PARTLY PAID TO 10C, 10C UNPAID
WESTPAC OFFICE TRUST	WOTCA	IRS	INSTALMENT RECEIPTS	INSTALMENT RECEIPTS PAID TO 50C, 50C UNPAID

Members are building solutions to ensure compliance with the new rule. Obviously, it is most efficient for these solutions to be electronic. The key information to trigger the new client agreement requirement would be the '**Description Short**' field (i.e. 'CTG' or 'IRS') obtained through the 'Short Abbreviation' field of the E Signal from ASX. However, this is not consistent with the 5 securities in the Circular, set out above. In the E Signal, there are approximately **20 securities** with 'CTG' or 'IRS' in the 'Short Abbreviation' field.

Adding a second criteria to the identification process also does not resolve the issue. For example, if you also add where par value is not equal to paid up value, then MAFCA is excluded (even though it is partly paid), and a couple of others would be included that are not on the list (e.g. RSNCI).

Having already taken measures to enhance investor awareness, Members are expending a great deal of time and effort as 1 May approaches in a genuine attempt to be in a position to comply with the new Rule. However, compliance is difficult due to ASX's own systems. Three weeks notice is not (as was suggested in the ASX Circular) sufficient time to prepare for the implementation of this Rule.

**Action Requested:**

In order to assist in the process of building compliant solutions, **we request as a matter of urgency that ASX change the Short Description field to a unique identifier, or provide an alternate but equally effective unique identifier, so that a system solution is achievable.** If this is not achieved, our Members will be left with no choice but to rely on a manual solution that will be burdensome, expensive and subject to human error. Such a manual solution will also make compliance very difficult and will significantly increase operational risk, which would not be consistent with the regulatory outcomes being pursued through these measures.

If the ASX system cannot be changed, then **the implementation date for the new rules should be delayed** in order to allow proper arrangements to be made, which should be **at least 3 months** (or at least **2 months** after the unique identifier issue is resolved).

Finally, I note that had there been suitable consultation with industry prior to the announcement of these new requirements, these problems may have been brought to light earlier. In SDIA's experience, failure to consult often leads to unintended consequences such as these.

Under the circumstances, I trust that these matters can be addressed as a matter of urgency. Should you wish to discuss these matters further, please contact me, or Doug Clark, Policy Executive on 0417 168804.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D Horsfield', written in a cursive style.

**David W Horsfield**  
**Managing Director/CEO**

cc. Tony D'Aloisio, Chairman, ASIC  
Sen the Hon Nick Sherry, Minister for Superannuation and Corporate Law