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Dear Sir/ Madam,

RE: Supervision Cost Recovery Arrangements

The Australasian Securities Dealers Association (ASDA) would like to thank Treasury for the invitation and opportunity to provide comment on the options for amending the ASIC Market Supervision Cost Recovery Arrangements.

We congratulate the Government and Treasury the structure of the paper and raising the concerns of various stakeholders. As you may be aware, ASDA represents the unique interests of the AFSL's that clear and execute trades through participants. We do not intend to comment on issues that pertain specifically to the participants, however wish to raise a few broad points, as well as some specific responses to your consultation paper.

Overall, whilst we believe Government should have as little to do with markets as possible, we see cost recovery as positive. Now the system has been established, we hope the total annual cost will come down further as the AUD\$43.7M seems to indicate from the initial setup cost. We would like to see this overall cost further reduced as electronic surveillance is further embraced by ASIC as an integral part of the IMSS upgrade.

Furthermore, we see market operators, then participants as the logical point through which to surveil & recover costs. Whilst AMLs and participants should both have sophisticated surveillance technology at their disposal, we ask that budgets be set for ASIC reflect auditing the existing surveillance capabilities of participants and market operators rather than recreating them.

Additional Issues of AMLs

We note with great interest following the issues paper from November relating to Australia's Financial Market Licensing Regime: Addressing Market Evolution. The Financial Markets Unit is undertaking both consultations however we consider the figures presented in this cost recovery paper could be significantly skewed if 30 - 90 additional AMLs were to be issued as a result of other consultations.

This issue set aside for the time being as an assumption, we would like to make the following points.

Variable Supervision Charges

We see that there is an effort to bundle HFT into one basket when in reality, HFT takes on many different shapes and forms. We note that most participants and institutional funds will employ algorithms or HFT technology at some stage of the trading process.

To use a messaging supervision charge in itself as a deterrent to HFT makes much sense as it reflects a user pays option. We suggest that up to 70% of the supervision charges should be charged this way so as not to discourage employment by participant firms. We think that charging participants an estimated variable fee and then adjusting the fee based on a quarterly audit provides the most administratively efficient option for cost recovery.

We feel the Fees Act should be amended to adjust the payment of future fees as well as reimburse the unrealised costs so ASIC is not limited in its options for future administration.

Mandatory Pass Through

There is a continuing trend of participants coming off participation due to the expenses associated with being a member of the ASX and ACH as we recently saw with InvestorFirst being carved up and sold, DJ Carmichaels moving to NSX participation, Holst and Ballieu merging and BBY acquiring significant assets of other participants.

We have seen a number of examples of participants who have not managed this evolution either in the pricing or their operations and have over the previous difficult operating period, come off participation, or ceased to exist. We hope that the increased supervisory capacity of ASIC will assist in protecting consumers however it will not assist in mismanagement or existing resources or pricing strategies for the “wholesale market” of independent AFSL’s.

We imagine that most participants would allocate a PID charge through to their clients (independent AFSL’s) allowing them to pass through \$1800/ quarter or perhaps more to each terminal employed throughout the 600 independent AFSL’s and 3000 advisers. It is the cost of doing business and nothing more and as such it should not be mandated.

The only point to be raised here is how the charge is passed on to retail clients of any AFSL, participant or independent. This should be transparent both for the AFSL and the clients. We would not like broking to end up like the airline industry where “transactional taxes” are added to a clients statement after the purchase decision has often been made.

We thank treasury for the opportunity to comment on some relevant aspects of the consultation paper and would be happy to elaborate further at a time of your convenience if you so wish.

Yours sincerely

Jamie Coote
Chair