

October 9th, 2015

Corporations and Schemes Unit  
Financial System and Services Division  
The Treasury  
100 Market Street  
Sydney, NSW, 2000

By email: [asicfunding@treasury.gov.au](mailto:asicfunding@treasury.gov.au)

### **Consultation paper – Proposed Industry Funding Model for the Australian Securities and Investments Commission**

Dear Sir or Madam,

OpenMarkets Australia Limited is a recently established (2013), Australian-owned stockbroking firm which is a trading, clearing and settlement participant of Australian Securities Exchange, National Stock Exchange of Australia, Chi-X Australia and SIM Venture Securities Exchange. We welcome the opportunity to submit our comments on the proposed ASIC funding model.

It is our view that regulatory activity in any sector of public endeavour, including financial markets, is most appropriately directed to

- Ensuring legal compliance, to promote confidence in and minimise harm from the regulated activity;
- Not stifling, and indeed encouraging, of innovation;
- Promoting and rewarding risk minimisation by sector participants;
- Protecting consumers both large and small from inappropriate or illegal behaviour by others;
- Maximising the economic benefits to consumers and to the Australian economy as a whole; and
- Minimising the cost of regulatory activity while achieving these outcomes.

OpenMarkets' business model was specifically crafted to use innovative technology and business practices in new and more effective ways, and to minimise the risks involved in existing practices around trading, clearing and settlement activities. Doing so has enabled us to offer broking services at one of the lowest costs to clients of any Australian broking firm.

Although we believe these principles apply to all facets of ASIC's regulatory responsibility, we comment here on financial markets only.

Applying the above principles in the context of the proposed ASIC industry funding model, we suggest that

- ASIC's activities benefit the Australian public as a whole and therefore should properly be funded from public revenue as other law enforcement activities are.
- Imposing the proposed additional costs on broking firms will inevitably lead some firms to close, some to move their activities to more hospitable regimes offshore. The first outcome runs the very significant risk of leaving only "too big to fail" firms, the second to a decline in Australian economic activity and concomitant public revenue.
- An industry funding model that operates as a transaction tax creates a friction cost that must necessarily reduce investor returns. A scheme where fees depend on entity size or transaction volume or value is de facto a transaction tax.
- The proposed model does not appear to create transparency of ASIC's costs. The current ASIC Market Supervision Cost Recovery arrangements exemplify the lack of transparency of ASIC spending, which the existing Stakeholder Panel does not appear to mitigate.

Although brief, we hope the above can influence Treasury's and the government's thinking on this issue. Australia's capital markets will benefit as a result.

Yours Faithfully,

A handwritten signature in black ink that reads "Frank Malcolm". The signature is written in a cursive style with a horizontal line underneath the name.

**Frank Malcolm**  
General Manager

Level 2, 451 Little Bourke Street,  
Melbourne VIC 3000

**P:** +61 2 9810 8202

**M:** +61 408 411 767

**E:** [frank.malcolm@openmarkets.com.au](mailto:frank.malcolm@openmarkets.com.au)

**W:** [www.openmarkets.com.au](http://www.openmarkets.com.au)