



ASDA
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To Whom it May Concern,

RE: Corporations Amendment (Further Future of Financial Advice Measures) Act 2011

We thank Treasury for the opportunity to provide comments on the exposure draft of the **Corporations Amendment (Further Future of Financial Advice Measures) Act 2011**. We hope to add value and substance to the consultation process.

The Australasian Securities Dealers Association (ASDA) congratulates Government on initiating positive steps towards enhancing retail consumer protection. We believe the overarching goals to be progressive and positive for consumers and the entire financial service's industry.

Whilst in our response to Tranche 1 **{or the Future of Financial Advice (2011) Bill}** we noted specific parts of the Bill that we felt warranted further consideration, in this submission we would like to take a broader view. We believe your targeted consultation of our previous submission is already under consideration and thank-you for your consultation with ASDA.

ASDA notes that the explanatory memorandum for the **Corporations Amendment (Further Future of Financial Advice Measures) Act 2011** exposure draft specifically states that the "underlying objective is to build trust and confidence in the financial planning industry". ASDA and its Australian Financial Service's Licence (AFSL) members are becoming increasingly concerned about to whom the entirety of the measures will apply.

The explanatory memorandum also refers to a collapsed market participant that provided some of the impetus for the drafting of the legislation, so are to assume that the Government intends to apply the entirety of the **Corporations Amendment (Further Future of Financial Advice Measures) Act 2011** exposure draft to Australia's 5000 AFSL's?

Some of the proposed amendments are inappropriate to licensees and advisers of Market Listed Securities (MLS) and pre-Initial Public Offering (IPO) direct equities. The consequences of a wholesale application of the 963(2) to

AFSL's that are licensed to deal in these specialised products are that ASX listings, capital raising's and specialist securities advisers will move offshore and retail investors opportunities IPO investments will be diminished.

We ask Treasury, the Government, ASIC and other stakeholders to consider if an additional act may be more appropriate than incorporating these changes to the Corporations Act (2001), and then applying carve outs to specific industry subsets? As noted in our previous submission, identifying these subsets through licensing or membership of private companies is either difficult or inappropriate.

Additionally, we would like clear guidance on whether the definition of wholesale investors will be altered in either a substantive or minor manner. The broad aims of the Tranche 1 and Tranche 2 amendments to date have been to enhance consumer protection for retail investors or consumers. Should the Government decide to redefine wholesale clients in Tranche 3 or later, then potentially a large number of clients will have investment opportunities adversely affected.

ASDA's members and the industry as a whole we believe, need a certain operating environment as opposed to one that has cascading cost implications for governance, administration, technology and operations. Small business and competition is fundamental to Australia's economic wellbeing. Whilst we assume that large financial institutions may be able to absorb the aforementioned implications as a percentage of revenue more readily, we would like to think that any amendments will not disadvantage independent ASDA's boutique AFSL's and their 2.5 Million client accounts.

ASDA believes that the potentially unintended consequences will disadvantage independent boutique AFSL's as well as push consumers towards general advice service's. ASDA believes that encouraging retail consumers to seek advice is preferable to retail consumers using no-advice or general advice service's. We hope that Treasury & Government agree that a retail consumer should have a better chance of becoming a wholesale investor when given appropriate specialist advice.

The flow on benefits from this overarching objective to the Australian economy is much greater that the value of single pieces of advice. ASDA believes this can, at least in part, be achieved through industry led standards, disclosure and meaningful training.

Please feel free to contact our association if you would like any further information on our submission or any other matter.

Yours sincerely



Jamie Coote
Chair

About ASDA

The Australasian Securities Dealers Association (ASDA) is governed by its [committee of management](#) who come from our member firms. ASDA is committed to a well regulated & transparent market for financial products and works with Government, regulatory bodies and industry service providers on a wide range of issues.

Our [members charter](#) helps define what we feel a professional financial service's firm should be. The 250+ businesses that we represent are engaged in providing advice on pre-IPO and market listed securities to wholesale and retail client bases as well as broad investment planning activities. Our members run highly specialised businesses (predominantly independent boutique AFSL's) that are predominantly not members of ASX.

ASDA believes that the ever increasing number of boutique AFSL's who are responsible for an increasing percentage trades occurring on the ASX and other execution venues globally deserve a low cost & efficient operating environment. Our members have high levels of daily interaction with their staff over compliance and operational issues, and have generally been trained by ASX member firms.

Our figures show that boutique AFSL's either led or played an active role in 43% of all IPOs in Financial Year 2011. Additionally numerous capital raising's have been facilitated by our members for Australian companies with over \$3.5 raised in FY10-11.

The significance of the boutique AFSL role is of course greater than just these statistics as non-ASX Participants are more likely to assist capital raising by small to medium business, the growth engine of the economy, and have far greater reach to retail investors.

Whilst many in the community and clients would recognise our members as "stockbrokers" (not understanding the technical differentiation) they are appreciative of the high level of client interaction that comes from dealing with a boutique AFSL.

More information on ASDA can be found at:



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