

MEDIA RELEASE

28 January 2010

GREATER PENALTIES AND ENFORCEMENT POWERS FOR MARKET MISCONDUCT OFFENCES A STRONG DETERRENT

The Stockbrokers Association of Australia said today that the significant increase in criminal penalties and investigation powers in relation to serious market misconduct offences announced by the Government today should have a strong deterrent effect.

“The increases in penalties, from \$22,000 to a minimum of \$500,000 for individuals and from \$1 million to \$5 million for corporations, and jail terms of up to 10 years, will focus market participants on the need for probity” said David Horsfield, CEO of the Stockbrokers Association of Australia.

Whilst the penalty increases are large, they are within the range of penalties that are imposed in comparable overseas jurisdictions such as the U.S.

“There will be some who think that the new maximum penalties are severe but if you operate with integrity, as the vast majority of participants do, then you have nothing to worry about.

“Education will be a key in making people aware of their obligations in observing market integrity and the professional development programs like that provided by the Association will prove vital in making the message clear – particularly to new entrants into our industry”, Mr Horsfield said.

“Effective regulatory and enforcement action by ASIC will now be the key. The increased criminal penalties, together with the expanded search warrant and electronic surveillance powers should give ASIC all the powers that it needs to effectively regulate the markets.

“The main problem with enforcement in the past has been obtaining evidence. The wire tapping provisions should enable ASIC to more easily obtain direct evidence of misconduct”, Mr Horsfield said.

“There are some important details missing from today’s announcement, such as, what will happen to the civil penalty regime in section 1317G of the Corporations Act? The new criminal penalties announced are much higher than the maximum amounts set for civil pecuniary penalties. Is the Government planning to also increase the level of civil penalties, and if so, to what amounts? Or will the market misconduct offences be dropped from the civil penalty regime? It is important to see the detail in the Exposure Draft foreshadowed to be issued later this year.”

For further information:

David Horsfield, Managing Director & CEO, SAA, ph: 612 8080 3200
Michael Meagher, CPR Communications, ph: 0410 482 367