

## Brokers cry foul over proposed \$5m fine

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Stockbrokers have told the federal Treasury that proposed fines of \$5 million for market misconduct are harsh and oppressive on brokers and may force up salaries or prompt an exodus from the profession.

In its submission to Treasury, the Stockbrokers Association of Australia also warned that public disciplinary hearings would be inconsistent with other proceedings held by the corporate regulator and "would not lead to good regulatory outcomes".

The peak industry body has joined stockbrokers and other business groups to openly criticise the government's new regulatory framework for financial and share markets. "In our view, nothing has changed in the short period of time since the ASX maximum fines were increased [to \$1 million] in 2008, to suggest that ASX's consideration of the appropriate maximum was inadequate," the SAA said in its submission.

"It is difficult to understand the policy rationale for a five-fold increase in the effective maximum civil penalty for a breach of a market integrity rule. In our submission, \$5 million is an unreasonable amount."

Late last year, the government announced the first details of how government regulation of the stockbroking industry would work under the new regime, including \$5 million fines, new market integrity rules and a new system of infringement notices. This followed the long-awaited decision in August by Financial Services Minister Chris Bowen to strip the Australian Securities Exchange of its role as market supervisor and transfer the role to the Australian Securities and Investments Commission, paving the way for multiple exchanges.

Although stockbrokers and business groups have applauded the government's decision to move to competition, they have criticised the specific detail of the proposed regime.

Gavin Powell, the head of EL & C Baillieu Stockbroking, echoed the SAA's submission, saying \$5 million fines were excessive and suggesting that ASIC penalty hearings should not be held in public.

Stockbroking firm Euroz Securities called the proposed regime "harsh and oppressive" and said it would be "generally punitive in its approach".

"More like a system that is designed to impose a sanction upon a person who has committed a crime rather than a system suited to the regulation of professional standards," its submission said of the regime.

Euroz said that many experienced staff would be reluctant to accept the risk, leaving many unwilling to accept roles or forcing them to leave the stockbroking industry altogether.

"Alternatively, they will require very substantial increases to their remuneration to compensate them for taking on the risks that will be inherent in the new regulatory system," Euroz said.

The Australian Bankers' Association also claims the case for a significant increase in penalties has not been made out.

"We consider that any penalty regime should be proportionate," the ABA said in its submission.

The SAA also claimed that the proposed infringement notice regime - a no-contest penalty set at 80 per cent of the maximum - was too high and would "encourage parties to contest a matter until the end, as it does not represent much downside risk in the event of loss".

It also said there was no reason to hold market integrity hearings in public when other ASIC hearings - such as banning orders, takeover panel determinations and continuous disclosure infringement notices - were not.

"Matters will in all likelihood touch on relations with clients or other investors, who may have a legitimate reason for their affairs to not be ventilated in public, and who will usually not be a party to the hearing," the SAA said.

### KEY POINTS

.Stockbrokers say government proposals for fines are oppressive.

.The SAA has warned of an exodus of people from the profession.

The Australian Financial Review

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