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Regulation Benchmarking Study
Productivity Commission
LB2 Collins Street East
Melbourne Vic 8003

By email: regulationbenchmarking@pc.gov.au

Dear Sirs,

**Submission to the Productivity Commission
– Study on Performance Benchmarking of Australian Business Regulation**

The Securities & Derivatives Industry Association (SDIA) is the industry body that represents over 66 stockbroking firms, who in turn represent over 98% of the market by value on the ASX.

The SDIA includes organisations of all sizes across the entire breadth of the industry, both institutional and retail, which enables the SDIA to have a comprehensive understanding of the challenges and opportunities facing our industry.

Introduction

We are grateful for the opportunity to provide submissions to the Productivity Commission for inclusion in its study on Performance Benchmarking of Australian Business Regulation.

ISSUES

How broad should the benchmarking coverage be?

Careful consideration should be given to making benchmarking coverage too broad. A major risk if this approach is decided upon, is that aside from the broad benchmarking undertaken, another activity would probably be required to collect specific information relating to each regime. For example, financial services regulation in itself is extremely broad with the securities and derivatives industry regulated by the Australian Securities & Investments Commission, AUSTRAC and the Australian Stock Exchange Market Rules. As an illustration, the requirements for the securities and derivatives industry are quite different to that required for product safety and therefore the main issues in each regime may not have any synergies with the other regime.

Whilst the SDIA recognises the costs involved in having a narrow and industry specific focus when benchmarking, the outcomes may be more useful and not disproportionate to the industry involved. It may also achieve a much more reliable benchmark.

Regulatory areas that should be benchmarked

The regulation that covers the financial services industry should be benchmarked regularly (perhaps every 3 – 5 years) due to the ever increasing regulatory burden placed on financial service providers and more particularly, the overlapping of regulation (i.e. Corporations Act / impending AML/CTF Bill). Refinements to the legislations that covers financial services providers is ongoing due to the varying requirements of the different legislation and the objectives to be achieved. Simplification and harmony of regulation and interpretation of legislation by government agencies is possibly an area that can be benchmarked across different regimes.

Approaches to be cost effective

The following options as outlined in your Issues Paper are considered the most feasible and economical for benchmarking the financial services industry:

- Quantitative and qualitative indicators of regulatory burden for each jurisdiction; and
- Information on differences in regulation-making processes, legislation, agency coordination and administrative and enforcement procedures by which the sources of any measured “unnecessary” burden can be identified.

Data collection, compilation, assessment and reporting

Although the US General Accounting Office study concluded amongst other things that there are inherent difficulties and assumptions involved in measuring the cost of compliance in business, including businesses unwilling to participate due to more pressing priorities and limited resources and regulatory requirements being hard to identify (they become part of standard practice), businesses can still be encouraged to supply meaningful data if the study is scoped properly –see below Regulation Taskforce.

Regulation Taskforce

In October 2005 the Prime Minister and the Treasurer announced the establishment of the Regulation Taskforce. The Taskforce's remit was to identify actions that would address areas of Australian Government regulation that are an unnecessary burden, complex, redundant or duplicated in other jurisdictions and very importantly placed undue cost on business in the implementation of the regulation. The Regulation Taskforce delivered its recommendations to the Government during January 2006.

The Taskforce was heavily reliant on business to assist in identifying areas where compliance burdens are potentially excessive. Business responded very positively to the challenge (in contrast to the US experience) putting forward a wide array of suggestions across a number of regulatory sectors (including those that the Productivity Commission's Regulation Benchmarking Study is interested in). The SDIA considers the Regulation Taskforce's Report – Chapters 5 Economic and financial regulation and 7 - Addressing the underlying causes of over-regulation, would be of tremendous use to the Productivity Council's Benchmarking Study if these areas are used in the benchmarking study, as a lot of the information that you require has already been produced within the Regulation Taskforce's Report.

Once again, we are grateful for the opportunity to submit on the Performance of Australian Business Should you require further information, please contact me, or Jill Thompson, Policy Executive, on 02 9776 7906, or by email to jthompson@sdia.org.au.

Yours sincerely,



David Horsfield
Managing Director/CEO
Securities & Derivatives Industry Association

ABOUT SDIA: The Securities & Derivatives Industry Association is the peak body representing the interests of market participants in Australia. SDIA was formed in 1999 at the time of the demutualisation of the Australian Stock Exchange. Currently we have 66 member organisations, which account for some \$3b worth of trading daily on the ASX, which is approximately 98% of the market. In addition we have over 1300 individual members and are working to build the profession of stockbroking. Our member firms employ in excess of 8,000 people.