

THE ISSUES TOO MANY CONSIGN TO THE TOO HARD BASKET

Some major issues dealt with by the
ASA Board

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- An ASA member posed an obvious – and legitimate – question at the 2008 AGM in May in Brisbane
 - Are ASA members getting value for their money ?
- The query had me pondering:
 - On major changes of the past few years
 - On the value and impact of Board directors' contributions

Some ASA key developments

- Wholesale revamp of Equity
- An education revolution of our own
- Massive increase in company monitor training and support
- Significant relationship forged with ASX
- Total overhaul of ASA policies
- National biennial conferences valued by participants, key speakers, sponsors

And the ASA Board???

- None of these achievements has happened in a vacuum
 - Without effort, planning and commitment
- But what does the Board 'DO'?
- Here's an example of the Board's considerations over the months leading up to and since its meeting coinciding with the AGM in May

The too hard basket issues

- Ask an investor whether they understand the impact on them of:
 - Short selling
 - Stock lending
 - Directors' margin loans
 - The ASX's conflicting roles
- And most will say it's all too hard
- And do these things really affect me anyway? Should I be worried?

Board concerns centre on these matters

- Investors being able to take informed decisions
- Markets operating transparently
- Market operators or participants who investors rely on but who may have conflicts of interest
- Disclosures enabling the above to be assessed efficiently and adequately
- Regulation where it is essential, and effective enforcement

Short selling – Too many questions; not enough answers

- If short selling involves selling something you don't own – and it's legal – why worry?
 - How much of it is actually happening?
 - If we knew, would it make any difference to an investor's decisions?
 - Is the system broken anyway?
 - Should it be fixed?
 - Will any 'fix' just make things worse?
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Stock lending – A huge, hidden bombshell awaiting explosion??

- Many big financial institutions who own most stock in trust for others lend stock
 - Does my super fund lend out my stock?
- If it did, should I care?
 - If I knew, what difference would it make?
- How risky are the borrowers?
 - What happens if they default?
- What are they borrowing for?
 - How much is to cover short selling? Margin loans?
- Who should disclose lending – and why, to whom, how and when?

Is Eddie Groves really a demon now?

- Should directors and senior executives be flogged for risking wealth via margin loans?
- What about 'skin in the game'?
- Should the government ban director and senior executive margin loans?
- Should companies be responsible for what their directors and senior executives do?
- Who benefits? Who loses?
- Who should disclose to the market, what and when?

And who rules the roost anyway?

- The ASX has rules governing disclosure
 - Does/can the ASX enforce them?
 - Are regulators enforcing the right things?
- Does the ASX want to maximise ‘liquidity’ for investors’ sakes, or for their own profits?
 - Is that what short selling and stock lending is really about?
- Should ASIC be doing something else?

Free market operations v. Market regulation

- Is it a case of stripping out an ASX conflict of interest?
 - Is it a case of ASIC being under-resourced?
 - Does or can self-regulation adequately protect investors?
 - Can bureaucrats effectively regulate anyway?
 - Can greed and fear be countered via effective regulation and enforcement?
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Board conclusions – Short selling and stock lending

- Nothing is black and white
- Short selling and stock lending play legitimate and valuable market roles
- Abuses seem apparent, including of CGT exemptions
- Disclosure and publically available data are inadequate
- Too little is understood by investors
- And by some key market players too

Board position – Short selling and stock lending (1)

- Lending stock to get the same effect as short sales shouldn't enable lenders to avoid disclosure and regulation
- Government should review the CGT exemption to assess its consistency with the exemption's initial intent
- Lenders holding shares in trust should not lend them unless the benefits outweigh the extra significant risks to beneficial owners. Lenders should disclose specific financial information about the returns to beneficial owners

Board position – Short selling and stock lending (2)

- Financial penalties must increase to be effective deterrents to non disclosure
- ASA will continue research into who is borrowing and lending so we can target who should disclose, what they should disclose, and how and when
- Arm (and further train) ASA monitors with appropriate questions for relevant companies

Board conclusions – Margin lending

- Margin lending used by directors and senior executives is legitimate
- Its disclosure is of critical importance when it is, or becomes, material to a company's share price
- Directors, senior executives and boards each have disclosure responsibilities
- The links between margin lending, short selling and stock lending are murky
 - They are potentially significant for effectively transparent market operations

Board position – Margin lending

- Directors and senior executives should disclose margin loans to their boards
- Boards should have margin loan risk policies and assess risks as loans are disclosed to them
- When margin loan risks are or become ‘material’ (i.e., likely to affect the stock price or value), boards should disclose this in accordance with ASX rules
- The ASA will continue to delve into the links between margin loans, short selling and stock lending to reveal their dangers to investors

Board conclusions – Market regulators

- To transfer ASX regulatory powers to ASIC may not work as intended
 - The consequences need to be examined
- It is not just a matter of more disclosure
- It is not just a matter of more and better enforcement
- The debate needs to be better informed and all vested interests recognised for what they are

Board position – ASX conflict of interest; ASIC enforcement powers

- The market should operate transparently enabling and facilitating informed decision making by players in the market, where market operators, regulators and participants do not disadvantage one another due to conflicts of interest
 - The ASA is lobbying government and regulators, with a view to focusing them on market or regulatory failures and their causes, in order to make changes essential to meeting the above objective
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Board value added contributions (1)

- The issues remain works in progress for the Board, its policy committee and the national office
 - The issues are not kept in the too hard basket
- Key policy positions have been in Equity and on the web for consultation with members
 - More are in the pipeline

Board value added contributions (2)

- Further research is underway
- Meetings with government ministers and submissions are in train
- Monitors are quizzing companies
- And the Board remains committed to educating members about these issues to reduce the risks inherent in ignorance

A bit about the ACT Region Branch

- All the usual activities of an ASA branch
 - Meetings
 - Discussion groups (2 per month)
 - Education seminars (3 or 4 per year)
- We have followed WA's lead
 - 2 CAD groups examining local listed companies
 - the first about to report

Company monitoring

- Started with small amount of 'remote' monitoring for NSW 2 years ago
 - i.e. assisting with analysis, backfilling for AGMs needing stand-ins
 - Now have our own subgroup headed by ACT CMC chair
 - 3 monitors plus 2 in training
 - 14 companies now monitored for NSW
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Educational pioneering

- Twilight seminars
 - Longer than branch meetings but shorter than seminars to cover issues in greater detail and cater to working people
- DVDs/videos
 - Investing in practice } both from filming
 - Investing choices } education seminars

 - Global investing } both from filming
 - Financial ratios } twilight seminars

Our own ASA/ASX initiative

- Lacking the Investor Hours
- We negotiated add-ons to the regular ASX roadshows going to most capitals
 - 2 in 2007
 - 3 in 2008
- Bringing top speakers to Canberra from 3 to 5 companies at a time
- With numbers ranging from 70 to 200

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