28 August 2017

Ms Deborah Bails
Market Supervision
Australian Securities and Investments Commission

By email: sell.side.research@asic.gov.au

Dear Ms Bails

Submission with respect to Consultation Paper 290 and the Draft Regulatory Guide: *Sell-side research*

This letter sets out a submission by Euroz Securities Limited ("**Euroz**") about the proposals made in Consultation Paper 290 and about the matters set out in the Draft Regulatory Guide: *Sell-side research*.

1. Context and overview of issues

1.1 It is apparent from the Consultation Paper (at paragraph 6) that ASIC is particularly concerned to ensure that conduct of the type that was observed with respect to the *Toys R Us* matter does not occur in Australia. This conduct being the following:

(1) equity research analysts participating in competitive process whereby they *pitched to a client* (that is, informed a potential client) that they would produce a valuation that was in accordance with the valuation reached by their respective associated investment bankers. This *pitch* was made in the context that the client had made it clear, that in order to receive a mandate, the views of the equities research analysts and their associated investment bankers would have to be aligned; and

(2) each of the *firms* involved offered that they would produce favourable research coverage (this being research that may not have reflected the actual views of the research analyst who would prepare the research converge) in return for a role in the transaction concerned.

1.2 Euroz, of course, does not, in any way wish to argue that the conduct that occurred in the *Toys R Us* matter was appropriate or that measures should not be put in place so as to prevent such conduct happening in Australia. However, it is Euroz's submission that some of the proposals set out in the Consultation Paper:

(1) go beyond what is reasonably required so as to ensure that *firms* comply with their obligations and will require firms to undertake unduly onerous and, in many cases, ineffective compliance related activities;

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(2) are based upon the view that the production of poor quality of research can only be prevented by limiting the interaction that research analysts have with other parties who have an interest in a transaction. In this regard, it is submitted that this view is not correct – what should be regulated is the *nature* of these interactions rather than whether or not they can happen at all;

(3) will result in the lowering of the quality of financial advice provided in the Australian financial market. This being to the detriment of the market as a whole, the firms that provide this advice and to their clients. Moreover, the effect of some of these proposals will be (because of the costs associated with complying with them) to cause firms to the limit the scope of their research based activities. This will, in turn, reduce the volume of research that is available in Australian market (particularly with respect to lower capitalisation companies) to the detriment of the efficient functioning of the market; and

(4) are overly focussed on issues concerning MNPI in circumstances where many of these issues would not arise if companies complied, more fully, with their continuous disclosure obligations (that is, it may be that more regulatory attention is required with respect to compliance by companies with their continuous disclosure obligations and less regulatory attention is required with respect to the handling of MNPI by research analysts).

1.3 With respect to MNPI, Euroz submits that:

(1) further guidance (that is, clarification) is needed as to the relationship between this concept and the definitions of *inside information*/*when information is generally available* as set out in s1042A and 1042C of the Corporations Act;

(2) the proposed declaration referred to at paragraph 45 of the Draft Regulatory Guide will raise difficult practical issues for research analysts in relation to the making of such a declaration in circumstances where it is not apparent what objective this declaration is intended to achieve; and

(3) the proposals set out in the Draft Regulatory Guide should not extend to *desk notes, emails and flash notes*. The issue being that these documents could not reasonably be seen as having the authority and/or the function of a *research report* in circumstances where many of the proposals set out in the Draft Regulatory Guide are impractical and overly onerous when applied to these types of documents.

1.4 With respect to the involvement of compliance staff in ensuring that MNPI is not misused, Euroz submits that some of the matters set out in the Draft Regulatory Guide are not practically possible to implement and that they are generally inappropriate (as they involve highly intrusive monitoring of telephone conversations and other communications). In this regard, Euroz also submits that implementation of some of the proposals set out in the Consultation will impose very significant compliance related costs upon firms in circumstances where these costs will not be in proportion to the outcome that will be likely to be achieved.

1.5 With respect to access to research analyst models (Draft Regulatory Guide at paragraphs 56-59), Euroz submits that the proposals set out in the Draft Regulatory Guide are not necessary and that moreover the implementation of some of these proposals may lead to inaccurate advice being provided to clients.

1.6 With respect to the proposed restrictions upon activities that can be undertaken by research analysts, Euroz submits that some of the proposals are unnecessary in circumstances where their implementation will lead to a lessening of the quality of financial advice that is provided in the Australian market to the detriment of the market as a whole and to all parties involved in a transaction.

1.7 Each of the matters referred to above will be considered in turn.

2. MNPI

2.1 At paragraph 32 of the Draft Regulatory Guide, MNPI is, in effect, defined as being the same as *inside information* as that concept is defined at s1042A of the Corporations Act. The difficulty with this is that the definition of *inside information* operates in conjunction with s1042C of the Corporations Act which defines when information is *generally available*. The issue being that it is not apparent how the matters set out in s1042C of the Corporations Act relate to the concept of MNPI in circumstances where s1042C of the Corporations Act sets out 3 *carve outs* to the definition of insider information that are of practical importance to research analysts (the issue being that research analysts will often generate information that falls within the definition of *inside information* but which is not inside information because of the operation s1042C of the Corporations Act – of particular importance is 1042C(c)). Looking at this issue another way, it is not apparent why the concept of MNPI has been introduced at all – that is, if MNPI is the same as *inside information* it should be referred to as *inside information*. If MNPI is different to *inside information*, the nature of that difference needs to be explained in the Draft Regulatory Guide.

2.2 The significance of this issue can be seen from the matters set out at Paragraph 36 of the Draft Regulatory Guide. This paragraph provides that a Licensee should make some inquires so as to determine whether information is generally available in circumstances where these inquires will not determine if the matters referred to at s1042C have been satisfied, in that they will not:

(1) determine whether the information has been made known and a reasonable period for it to have been disseminated has elapsed in accordance with the matters referred to at s1042(C)(1)(b) of the Corporations Act (the inquires referred to in the Draft Regulatory Guide refer to a narrow range of sources of information in circumstances whether other sources of information may be relevant – for example web based new sites); and

(2) whether the information consists of deductions, conclusions or inferences made or drawn from either or both of the information referred to at s1042C(1)(a) or information made known as mentioned in s1042C(b)(i) (this being an issue of particular importance to research analysts as a substantial part of their work will involve the creation and dissemination of information of this type). The issue here being that the Regulatory Guide refers to the *receipt* of information but it is not clear as to how price sensitive information that has not been *received* is to be treated.

Moreover, this matter illustrates the point made above about continuous disclosure compliance. Research analysts should not be put in the position of having to attempt to determine whether information provided by a company has been made generally available. They should be able to assume (unless it is obviously not the case) that when a company provides information to a research analyst that the company (and the person providing the information) is doing so in compliance with its continuous disclosure obligations and that the person providing the information is doing so in compliance with the Corporations Act provisions relating to inside information.

2.3 With respect to the declaration referred to at paragraph 45 of the Draft Regulatory Guide, the following issues arise:

(1) It is not apparent as to why it is important (such that it needs to be disclosed) as to whether or not a research analyst has been in contact with the company that is the subject of the research report (in that it is not clear what conclusion the reader of such a declaration is intended to draw from it). Moreover, it is not apparent as to what is meant by *contact* (for example does this concept include everything from a minor interaction to a meeting with management – again it not apparent what the reader of such a declaration about a *contact* is intended to draw from it). In any event, it is not reasonable or practical to expect this declaration (and the work required to be undertaken with respect to it) to be made each time a desk note, e-mail or flash note is sent to a client.

(2) The declaration referred to at paragraph 45(b) of the Draft Regulatory Guide raises the following issues:

(i) in accordance with the matters set out above, the interaction between the definition of MNPI and the operation of s1042C of the Corporations Act is not clear. An example of how this issue could arise is as follows: a research analyst conducts a detailed analysis of a company's accounts and notices a discrepancy in the way that a particular item has been treated for accounting purposes. The existence of this discrepancy is potentially MNPI but it is not *inside information* because under s1042C(1)(c) it consists of deductions, conclusions or inferences drawn from a readily observable matter (a company's published accounts). The issue arises as to how such a circumstance is to be treated for the purposes of the Draft Regulatory Guide because it would appear that such information would be MNPI even though it is not *inside information*;

(ii) whether or not a piece of information is MNPI is a legal issue that would have to be determined by a Court – that is, a research analyst cannot make a declaration as to whether a research report contains MNPI – at best, a research analyst can make a statement to the effect that having made reasonable inquires the research analyst has formed the view the research report does not contain MNPI;

(iii) it is not apparent what purpose the declaration is intended to serve – that is, a research analyst would not intentionally publish a research report that contained *inside information* so it is not apparent what will be achieved by having a research analyst make a declaration about this issue; and

(iv) in any event, it is not reasonable or practical to expect this declaration (and the work required to be undertaken with respect to it) to be made each time a desk note, e-mail or flash note is sent to a client.

(3) The declaration referred to at paragraph 45(c) of the Draft Regulatory Guide requires the research analyst making the declaration to make subjective assessments about factual matters (including making a subjective assessment as to what the intentions of another person may have been). For example, if a person who worked in corporate advisory stated to a research analyst that they did not agree with some aspect of the research analyst's methodology, would this amount to an attempt to influence the research analyst (the issue being whether such a statement amounts to an attempt to influence in an objective sense – that is, could the making of such a statement have influenced the research analyst and in a subjective sense – what was the intention of the person who made the statement – that is, has an attempt been made by a particular person so to exert *influence* over a Research Analyst). Moreover, the declaration refers to an irrelevant issue – the Research Report either reflects the analyst's (honestly held) actual views or it does not - whether or not someone attempted to influence those views is irrelevant to the reader of the research report. In any event, it is not reasonable or practical to expect this declaration (and the work required to be undertaken with respect to it) to be made each time a desk note, e-mail or flash note is sent to a client.

(4) In accordance with the matters set out at paragraph 27 of the Draft Regulatory Guide, the obligation to make this declaration will apply to a very wide range of research related documents (in particular and in accordance with the matters set out above to desk notes, e-mails and flash notes) in circumstances where some of these documents will have to be produced under very substantial time pressure. In this regard, Euroz notes that presumably the making of an incorrect declaration will expose the research analyst (and the firm) to the risk of having regulatory action taken against him or her. The significance of this being that, on occasions, the research analyst will be put in the position of having to make judgements about whether the declaration can be made, under time pressure, in circumstances where an incorrect judgment could expose the research analyst to personal liability. In these circumstances, if the research analyst is to properly to discharge their obligations with respect to the making of the declaration the research analyst will, on many occasion, have to obtain legal advice (and/or advice from the compliance department) in circumstances where this process will involve substantial expense and delay.

In Euroz's submission the combined effect of the matters set out above is that the declaration requirement (as set out in paragraph 46 of the Draft Regulatory Guide) should not be proceeded with (and if it is to be proceeded with it should not apply to desk notes, emails or flash notes).

3. Involvement of compliance staff

3.1 In accordance with the matters set out at paragraph 47 of the Draft Regulatory Guide, Euroz accepts that it would desirable for licensees to have compliance frameworks in place that did not place unacceptable reliance on staff integrity. However, as a practical matter, with respect to controls upon the use of MNPI it is difficult to put in place compliance measures (other than detailed training as to what is and is not acceptable and physical and electronic barriers to prevent the improper use of information) that will actually improve the level of compliance. In this regard, Euroz makes the following submissions:

(1) If a person wilfully chooses to misuse MNPI (for example if a person wilfully chooses to improperly disclose MNPI to another person it is difficult to conceive of compliance related activities that will prevent the occurrence of this event – an obvious issue being that such communication will not be made in a way that can be readily traced by compliance staff as the persons involved in such conduct will wish to avoid the possibility that they will be convicted of a serious criminal offence).

(2) The monitoring activity described at paragraph 49 of the Draft Regulatory Guide is impractical – that is, it is impractical (in terms of the resources that will be required and the likelihood that any relevant information will be ascertained) for compliance related resources to be devoted to randomly reviewing telephone conversations or other forms of communications so as to detect the misuse of MNPI (it is seems highly unlikely that this form of monitoring would yield any useful information both generally and specifically as the compliance staff doing the monitoring will not be familiar with the context of the matters being discussed). Moreover, unless a specific issue has arisen such that an investigation of particular communications is required, Euroz doubts that it is appropriate for compliance staff to randomly monitor communications (including communications with clients) in an effort to detect misconduct.

(3) Similarly, Euroz doubts whether it is practically possible and/or appropriate to monitor communications from research analysts by way of key word hits (this being the activity referred to at paragraph 50 of the Draft Regulatory Guide).

(4) It is not clear what will be achieved by compliance staff attending the various meetings referred to at paragraph 51 of the Draft Regulatory Guide in that:

(i) in accordance with the matters set out above, if persons wilfully decide to misuse MNPI they will find a way to do so – that is, the attendance by compliance staff at a meeting will not prevent the improper transmission of MNPI that has been acquired by way of that meeting;

(ii) compliance staff cannot be expected to be familiar with the context of the topics that are being discussed at such meetings (both generally with respect to technical issues that are being discussed and particularly with respect to the particular circumstances of the company concerned). The issue being that even if compliance staff were to attend such meetings it will be difficult for them to discern if MNPI is being discussed in circumstances where if it is discussed it is not apparent as to what compliance staff are required to do, should such a circumstance occur; and

(iii) the attendance at these meetings will potentially put compliance staff in the position where they are in possession of inside information in circumstances where this may prejudice the ability of compliance staff to interact with other staff within the firm.

(5) Generally with respect to this matter, Euroz notes that if these proposals are put in place very substantial additional compliance resources will be required (and substantial additional costs will therefore be incurred). In particular, it notes that:

(i) an additional burden will be placed upon Compliance Departments that will detract from the activities that are currently undertaken by them potentially leading to non-compliance arising in other areas;

(ii) some of the proposed compliance related activities, if they are to be undertaken effectively, would require a very detailed understanding of the affairs of various companies and of the characteristics of the industries in which they operate (these being matters that compliance related staff are not normally called upon to consider). As a practical matter, it will be difficult to recruit compliance staff that have these skills or to otherwise train staff in relation to these skills; and

(iii) in accordance with the matters set out above, the implementation of the proposals set out in the Draft Regulatory Guide (because of cost related issues) will cause the scope of the research coverage that is available in the Australian market to be significantly reduced (this being detrimental to the efficient operation of the Australian financial market)

In Euroz's submission, the combined effect of the matters set out above, is that the proposals set out at paragraphs 49-51 should not be proceeded with.

4. **Proposals with respect to the activities of research analysts and access to material prepared by research analysts**

4.1 Paragraphs 56-59 of the Draft Regulatory Guide propose very significant restrictions with respect to access to research analyst models. Euroz submits that these restrictions are both unnecessary and contrary to the public interest in that:

(1) it is in the public interest (that is, it is in the interests of the proper functioning of capital markets) that there should be a free flow of technical information (that is, analysis drawn from publicly available information) from the research department to other parts of a firm's business – research analysts have a very high level of expertise – if a research analyst has an important insight it is in the interests of the firm concerned, its clients and the wider investment markets that this insight is taken into account when advice is provided;

(2) the concern about an analyst being *tipped off* that a transaction is going to occur is presumably a reference to the possibility that an analyst would engage in some form of insider trading if he or she came into possession of this type of information. This is, of course, a (theoretical) possibility but as a practical matter it is fair to assume that research analysts will not engage in very serious contraventions of the Corporations Act;

(3) similarly, the concern that a person would engage in some form of insider trading offence based upon the knowledge of the likely future intentions of the research department (this being MNPI) would appear to be more theoretical than real; and

(4) removing notes from a research model or providing a research model that is consistent with published research (even though the current version of the model is inconsistent with that research) cannot be in the public interest (as it will lead ultimately lead to inaccurate advice being provided to clients). For example, a firm is approached about advising a company with respect to a takeover, the firm has previously published research about matters that are relevant to the target company's business. Subsequent to the publication of that research, events have occurred such that the relevant research analyst has changed his or her views about a relevant matter. It cannot be the case, as would happen if the proposal set out in the Draft Regulatory Guide was to be implemented, that it is appropriate or desirable for advice that is based on outdated information to be provided to clients (that is, an adviser provides advice on the basis of matters that are set out in a research report that have been superseded).

In Euroz's submission the combined effect of the matters set out above, is that the proposals set out at paragraphs 56-59 of the Draft Regulatory Guide should not be proceeded with.

Management of conflicts of interest during the capital raising process

4.2 With respect to the management of conflicts of interest during the capital raising process, Euroz, of course, and without question accepts that research analysts must produce accurate unbiased research. However, the proposals set out in the Draft Regulatory Guide go *too far* with respect to this issue as they seek to prevent the entirely appropriate exchange of views between interested parties. Looking at this issue another way, the provisions suggested in the Draft Regulatory Guide do not take account of the practical reality that underlies fundraising transactions in that:

(1) in terms of legal risk, research produced by research analysts has to be objectively justifiable – that is, as a practical matter an arbitrary price target (that is, a target that is false or misleading) cannot be assigned (by the corporate department or a corporate client) in the expectation that research analysts will *work backwards* and produce research that (improperly) justifies this price target – the point being that it is unclear that much of the conduct to which the Regulatory Guide is directed at, actually occurs;

(2) in terms of its continued operations, a firm will cease to exist if it produces research that is not justifiable as its clients will achieve poor outcomes and the firm's commercial reputation will be destroyed – again, the point being that the Draft Regulatory Guide focusses on some commercial drivers (the desire to obtain corporate fundraising mandates) and not others. The practical reality being that a firm that produces flawed research so as to attract corporate fundraising mandates will cease to exist;

(3) it is not in the interests of clients for their transactions to be based upon flawed research – that is, it is doubtful that clients go from adviser to adviser seeking an indication that they will receive biased research in support of a transaction. In fact, clients seek reputable justifiable research to be produced in support of their transaction as this will make it more likely that the transaction will succeed (that is, whilst a client will wish to maximise the amount received from a fundraising transaction this does not mean that a client will seek to influence its advisers so as to achieve a valuation that is not supportable by its underlying business model); and

(4) the combined effect of the above being that the production of research that reflects influence brought to bear by a client (irrespective of very significant legal risk that arises in doing so) is not in the best interests of that client, the firm's other clients and of the firm itself in circumstances where all parties who are involved in corporate fundraising transactions are well aware of this fact.

The point of the above, being that whilst it is theoretically possible that clients (and/or another part of a firm) can *improperly* (this issue is discussed below) influence a research analyst, the practical reality is very different. This fact needs to be kept in mind in considering what controls are reasonably required with respect to the activities of research analysts.

4.3 In this general context, Euroz makes the following submissions regarding the proposals set out in the Draft Regulatory Guide:

(1) ***pre-solicitation*** – in accordance with the matters set out above, there is nothing improper about discussing *valuation information* at a pre-solicitation meeting. In this regard, Euroz notes that:

(a) as a practical matter, it would be very difficult to not discuss valuation information at such a meeting as valuation is the point of nearly all commercial discussions concerning fundraising transactions;

(b) in any event, these types of meetings are provisional and contingent – it is difficult to see how any party could be improperly influenced by what was said at such a meeting; and

(c) it is the public interest (in terms of the efficient conduct of capital markets) that there is a frank and robust discussion about valuation information at such meetings so that all parties concerned can get a proper appreciation of their position.

In accordance with the matters set out above, Euroz submits that paragraph (c) at *D1 Guidelines for the pre-solicitation period* should be deleted.

(2) ***transaction vetting*** – again, there is nothing improper about including a research analyst in a transaction vetting process. In particular:

(a) it is in the interests of all parties concerned that the research analyst express views about valuation issues (particularly as the research analyst may have particular expertise on this point) – otherwise relevant persons within the firm and the client may not be aware of important information that they need to take account of in deciding whether or not to proceed with the transaction;

(b) the Draft Regulatory Guide (at paragraph 82) and in accordance with the matters referred to above, proceeds on the basis of assumptions about research analyst behaviour, firm behaviour and client behaviour that are not in accordance with practical reality. In particular, there is no reason to believe that an analyst will not change his or her initial view as to valuation once further information is available and there is no reason to believe that clients in making decisions with respect to mandates simply chose the most favourable valuation – instead, clients give mandates to firms that that can produce the most *credible* valuation; and

(c) there is no reason why a research analyst cannot interact with a company directly (that is, it is not apparent as to why interacting with a company directly will cause an analyst to, in effect, make false and misleading statement about a company's valuation). Moreover, the proposal that compliance should be involved in facilitating communication between a research analyst and a company is not practically possible to implement (and in accordance with the matters set out above this activity, were it to be attempted, would consume substantial compliance related resources at a significant cost to firms).

In accordance with the matters set out above, paragraphs (a) and (c) should be deleted from *D2 Guidelines for research analyst interactions with corporate advisory during the transaction vetting*.

In accordance with the matters set out above, paragraphs (a), (b) and (c) should be deleted from *D3 Guidelines for research analyst interactions with the issuing company during transaction vetting*.

(3) **transaction pitching** – in accordance with the matters set out above, the efficient operation of Australian capital markets requires that accurate advice be given to clients, in circumstances where it is in client's interests that the client receives accurate advice. Euroz also notes (in accordance with the matters set out in the Draft Regulatory Guide) that research analysts can be expected to have a very high level of expertise in the analysis of a company's business. In these circumstances, Euroz submits as follows:

(a) corporate advisory and research should liaise as part of the pitching process so as to reach an agreed position – it is not the case that such a process will, in effect, involve corporate advisory dictating a particular position to the Research Department; and

(b) the approach set out in the Draft Regulatory Guide could lead to the very undesirable outcome that a *pitch* is made on the basis of inaccurate information – it is the client's interests and in the interests of the market as a whole that *pitches* are made on the basis of the best available information which will involve obtaining input from research analysts.

In accordance with the matters set out above, paragraphs (a) and (b) should be deleted from *D4 Guidelines for research analyst interactions with corporate advisory during pitching*.

In accordance with the matters set out above, paragraphs (a), (b) and (c) should be deleted from *D5 Guidelines for research analyst interactions with the issuing company during pitching*.

(4) **IER** – in accordance with the matters set out above, it is in the interests of the financial markets as a whole and in the interests of each of the respective participants in a fundraising transaction that the most accurate information and advice is published. In this context, Euroz makes the following submissions regarding the proposals made in the Draft Regulatory Guide with respect to IERs:

(a) It is not practical that research analysts and corporate advisory staff (see the Draft Regulatory Guide at paragraph 99) should gather information independently – such an approach is inefficient and could lead to a situation where all relevant information is not in the possession of all persons who will be providing advice about a transaction. Similarly, research staff and corporate advisory staff should be interacting about substantive matters at all stages of the preparation of the IER. There is no reason to believe that such interactions will cause research analysts to be improperly influenced. In fact, such interactions (in accordance with the matters set out above) will lead to higher quality advice and information being produced – the issue being that if the proposals in the Draft Regulatory Guide were put into force different parts of the same advice provider (that is research and corporate advisory) would be working separately rather than combing their resources so as to produce the best possible outcome for the client.

(b) There is no reason why research analysts should not be able to interact with other research analysts. The Draft Regulatory Guide proceeds on the basis that interactions will lead to improper influence when, in fact, what they will lead to is a robust exchange of view that results in higher quality of research being produced.

(c) There is no reason why a company should not be able to ask questions of a research analyst (or provide its views about relevant matters to a research analyst) – again the Draft Regulatory Guide proceeds on the basis that such an interaction will lead to a research analyst improperly altering his or her views when, in fact, such an interaction will lead to higher quality information and advice being published.

(d) There is no reason why draft IERs cannot be circulated in circumstances whether Euroz doubts that it is practically possible to redact all valuation information from an IER. Again, there is a major difference between a company providing commentary and it attempting to improperly influence statements made in a document. Moreover, the circulation of a draft IER may lead to errors being detected which will result in better quality information being provided to all parties who are interested in the transaction.

(e) With respect to the *review of the draft IER* section of the Draft Regulatory Guide (paragraphs 109-111) this section conflates the receipt of comments in relation to the contents of a document with an attempt to improperly influence the views of its author. In this regard, the proposals made in this section are not appropriate as they:

(i) deny interested parties who have a legitimate interest in provide commentary upon the content of an IER with an opportunity to provide that commentary; and

(ii) will potentially cause IER's to be published that will contain errors that would have been corrected had the IER been circulated to interested parties before it was published.

(f) With respect to *After publication of the IER* section of the Draft Regulatory Guide (paragraphs 112-116) the proposals made in this section, if implemented, would appear to lead to sub-optimal outcomes in that:

(i) a process whereby an IER is withdrawn but, in effect, no statement as to why it has been withdrawn is made would not appear to promote market efficiency – moreover, it is an artificial process that will lead to confusion and unfounded speculation; and

(ii) the restrictions on who can be present at meetings will not lead to better outcomes in terms of the quality of information that is provided to potential investors – it is in investors' interests to be able to question all parties involved in the promotion of a transaction simultaneously (moreover, in terms of the time expended by all parties this is much more efficient process). In this regard, Euroz note that these presentation will be made before professional investors/advisers who are well able to assess the veracity of persons making presentations to them (and that accordingly, it is unnecessary to hold separate meetings).

In accordance with the matters set out above paragraph (e) should be deleted from *D6 Guidelines for an IER.*

In accordance with the matters set out above, paragraphs (a), (b) (c), (d) and (e) should be deleted from *D7 Guidelines for research analyst interactions with corporate advisory in preparing the IER.*

In accordance with the matters set out above, all paragraphs (other than (g) should be deleted from *D8 Guidelines for research analyst interactions with corporate advisory in preparing the IER.*

In accordance with the matters set out above, paragraphs (a), (b), (c), (d) and (e) should be deleted from *D9 Guidelines for research analyst interactions with corporate advisory in preparing the IER.*

In accordance with the matters set out above, paragraphs (a), (b), (c), (d), (f) and (g) should be deleted from *D9 Guidelines for research analyst interactions with corporate advisory in preparing the IER.*

Other matters – disclosure of prospective information

Paragraph 63 of the Draft Regulatory Guide deals with an issue of significant importance to Euroz and to other firms that publish research with respect to resource related companies. In this context, Euroz submits that Paragraph 63 of the Draft Regulatory Guide should be re-drafted so that its application is made clearer. This issue arises in the following manner:

(1) Paragraph 63 refers to research analysts acting to *disclose prospective information*;

(2) the difficulty with this concept is that what is regulated (by the Corporations Act and the Australian Securities and Investments Commission Act) is the making of statements or representations about a future matter – there is no regulatory obligation upon a research analyst with respect to the disclosure of prospective information (unless the research analyst was making a statement or representation as to the accuracy of the information that had been disclosed, without having reasonable grounds to do so – or that the information that is being disclosed is inside information); and

(3) accordingly, for example, it would not be improper for a research analyst to disclose the fact that a company had disclosed prospective information to the research analyst and for the research analyst to provide his or her opinion as to the accuracy of that prospective information – the issue being whether the research analyst had reasonable grounds to support his or her opinion (this being a statement or a representation with respect to which issues about misleading or deceptive conduct could potentially arise) – the disclosure of prospective information cannot, of itself, amount to misleading or deceptive conduct on the part of a research analyst.

Thank you for providing the opportunity to make a submission with respect to this matter.

Yours faithfully

Anthony Brittain
Chief Operating Officer