

Chapter 3

Corporations (National Guarantee Fund Levies) Amendment Bill 2007

Overview

3.1 The Corporations (National Guarantee Fund Levies) Amendment Bill 2007 imposes a cap on levies payable to the National Guarantee Fund (NGF) in any financial year, equal to the minimum amount of the NGF.

Background

3.2 The National Guarantee Fund (NGF) is the compensation scheme, generally for the protection of retail clients, of the Australian Securities Exchange (the ASX). It is administered by the Securities Exchanges Guarantee Corporation (SEGC), a subsidiary of the ASX, which holds the assets of the NGF on trust.

3.3 The NGF was formed when the six State stock exchanges merged in 1987 to form the national ASX and the assets of the fidelity funds of those State exchanges were also merged to form the NGF. Up until March 2005, the SEGC provided investor compensation and clearing and settlement support in the circumstances set out in Part 7.5 of the Corporations Act. However, on 31 March 2005, the NGF was split by a payment from it to Australian Clearing House Limited (ACH) which then assumed sole responsibility for clearing counterparty risk. As a result, the NGF now only covers investor compensation.

3.4 As at 30 June 2006, the NGF holds \$96.8 million and its major source of funding is investment income. It is not government funded. The Corporations Act sets a minimum amount (currently \$76 million) that must be held in the fund.¹ If the fund falls below this amount the SEGC currently has the discretion to levy participants and the market operator (the ASX) without any cap on annual payments.

3.5 The Bill amends the *Corporations (National Guarantee Fund Levies) Act 2001*. It imposes a cap on the levies payable in a financial year. All levies imposed in a financial year must not in total exceed the minimum amount that is in force at the date a levy determination is made by the SEGC. The existing SEGC discretion to decide who is levied (the ASX and/or market participants), and how the amount of a levy is calculated, is not changed by the Bill.

1 Section 889I of the Corporations Act sets \$80 million as the minimum amount, but this was altered to \$76 million by SEGC determination under subsection 889I(2) on 31 March 2005.

