Insider trading study shows stronger enforcement

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The first major study of the enforcement of Australia's insider trading laws has shown the number of insider trading cases brought by the Australian Securities and Investment Commission (ASIC) is increasing, and the regulator is having better success with its cases.

The recently-published study analysed all insider trading enforcement cases since legislation to regulate it was introduced in 1971.

Leader of the study and Melbourne Law School professor, Ian Ramsay said strong enforcement of insider trading laws was important to maintain investor confidence in the integrity of the financial markets, and also because compulsory superannuation means Australians are major investors in the financial markets.

"A key reason for undertaking this project was that evidence from international research has shown that strong enforcement of insider trading laws is associated with financial market development such as stock market capitalisation, trading volumes on stock exchanges, and the number of initial public stock offerings," Professor Ramsay said.

Key findings from the study included:

- 92 per cent of defendants were male, and the most common age group was 30-49 years.
- The most common employment of the defendants was, in order: company director, finance specialist, broker and senior executive. In one case, the defendant was an employee of the regulator.
- 37 per cent of the companies whose securities were the subjects of alleged insider trading were in the mining industry.
- The number of insider trading cases was increasing over time (with a total of 79 insider trading cases between 1973 and 2013).
- ASIC (and its predecessors) were successful in only 51 per cent of the cases, which was well below the 95 per cent success rate for all major litigation commenced by ASIC. This showed the challenges ASIC had in this area. However, ASIC was becoming more successful, possibly because it was giving more resources to insider trading enforcement.
- Most cases involved allegations of profiting by the defendant from the insider trading although in 26 per cent of the cases the defendant allegedly traded to avoid a loss. In 17 per cent of the cases, the alleged profit as a result of the insider trading was more than $1million.

The research was undertaken by Professor Ramsay and Victor Lei.

Provided by University of Melbourne