



11 May 2012

Manager, Financial Markets Unit
Corporations and Capital Markets Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: CFR-Review-FMI@treasury.gov.au

Dear Mr Bell

CoFR Review of Financial Market Infrastructure Regulation

The Australian Financial Markets Association (AFMA) welcomes the opportunity to comment on the letter to the Deputy Prime Minister from the Council of Financial Regulators (Council) with proposals coming out of its Review of Financial Market Infrastructure Regulation.

AFMA supports the Government moving to the next stage of policy development based on the proposals of the Council. At this point we do not intend to make substantive comments on the proposals made by the Council to the Government beyond recalling those we made previously in our submission dated 5 December 2011 on the Council's Consultation Paper and some brief high policy level observations made in this letter. AFMA looks forward to consultations on the details of how the Government intends to implement the proposals made to it by the Council.

Interaction with OTC Derivatives Reform

AFMA will be relating Financial Market Infrastructure (FMI) proposals affecting location requirements for clearing and settlement facilities to the concurrent consultations on OTC derivatives reform.

Global Consistency

In moving forward AFMA believes that it is essential to ensure Australia's regulatory framework for FMI is made to operate harmoniously with the broader global

framework. AFMA is concerned that regulations being put in place in different G20 jurisdictions are creating conditions that will lead to fragmentation, increased protectionism and regulatory arbitrage, ultimately risking a reduction in the ability of regulators to effectively regulate an increasingly globalised capital market. AFMA supports the G20's goals of developing a globally consistent regulatory framework. Our concerns reflect the risk that the various financial sector reforms being enacted around the world are not consistent with one another and, as a result, the ambitious goals set by the G20 in the aftermath of the financial crisis are not likely to be met.

Safeguarding the NGF

AFMA is concerned with the suggestion that the scope of eligible claims for the National Guarantee Fund (NGF), the treatment of Financial Industry Development Account funds, and the possibility of amalgamating the NGF with other investor compensation mechanisms may be subject to a review set to incorrect objectives. The NGF compensation arrangements for equities broking failures was funded by brokers and exists solely for the benefit of equity investors to protect them for losses caused by participants. The idea of amalgamating the NGF with other investor compensation schemes is completely at odds with the nature and purpose of the NGF.

Competition Analysis

AFMA has previously written to the Treasury welcoming the invitation of the Council's Working Group to the ACCC to develop analysis on competition aspects of clearing and settlement and seeking an opportunity to engage with this work.

AFMA supports a holistic approach to financial market infrastructure regulation, particularly with regard to clearing and settlement infrastructure that integrates market integrity goals with consideration of competition issues and market efficiency. This is in order to produce a strategic policy framework that provides clearly articulated principles to guide law reform and government decisions affecting ownership and control of financial market infrastructure, in a way that provides long term consistency and predictability for the market.

AFMA looks forward to our forthcoming meeting to discuss the proposals and the next steps. Please contact the writer at dlove@afma.com.au or (02) 9776 7995 if you have any queries regarding this letter.

Yours sincerely



David Love
Director Policy and International Affairs