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Corporations Legislation Amendment (Derivative Transactions) Bill

AGL Energy (AGL) welcomes the opportunity to provide comment on the *Corporations Legislation Amendment (Derivative Transactions) Bill*.

AGL is Australia's leading renewable energy company with the largest privately owned/operated renewable portfolio. AGL is also one Australia's largest retailers of gas and electricity with over 3 million customers in Victoria, New South Wales, South Australia and Queensland. AGL operates across the supply chain with investments in energy retailing, coal-fired electricity generation, gas-fired electricity generation, renewables and upstream gas extraction.

AGL acknowledges the need for robust over-the-counter (OTC) derivative trading arrangements. In particular, AGL appreciates that the Global Financial Crisis, and underlying causes, created the need to focus efforts on improving the robustness, and transparency, of OTC trading arrangements and that the Australian Government, through the G20, has joined other jurisdictions to implement 'substantial reforms to practices in OTC derivatives markets'[1].

A number of submissions to the *Implementation of a framework for Australia's G20 over-the-counter derivatives commitments* consultation paper – the precursor to the Amendment Bill – noted the importance of OTC trading arrangements, and potential adverse impacts of amendments, in the National Electricity Market (NEM).

The Energy Supply Association of Australia (esaa) argued in its submission that there is no clear rationale for implementing any of the proposed amendments to the *Corporations Act (2001)* for OTC trading in the electricity market'[2] and further, that 'the application of the proposed measures to the electricity market would place additional compliance, systems and credit collateral costs on participants and would also reduce their flexibility and ability to manage risk'[3].

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[1]Commonwealth Treasury, Introduction to the Draft Bill, pg.1. Available at: http://www.treasury.gov.au/~/media/Treasury/Consultations%20and%20Reviews/2012/derivative%20transcations/key%20documents/pdf/ExplanatoryMemorandum.ashx)

[2] esaa submission to the Commonwealth Treasury consultation *Implementing a framework for Australia's G20 over-the-counter derivatives commit ments*, pg.1. Available at: http://www.treasury.gov.au/~/media/Treasury/Consultations%20and%20Reviews/2012/Over%20the%20counter%20derivatives%20commitments%20consultation%20paper/Submissions/PDF/Energy_Supply_Association_of_Australia.ashx

[3] Ibid. pg.3

The esaa position was also echoed in the submissions to the G20 OTC consultation paper from the Private Electricity Generators (PEG) and the National Generators Forum (NGF).

AGL considers that the conclusions of the esaa, PEG and NGF have merit in that OTC arrangements have operated effectively since NEM commencement and it remains unclear that amending their operation would provide benefits to the sector that outweigh the likely costs – such as those noted by the esaa.

In regards to the Draft Bill, AGL notes that the explanatory document clearly states that 'the draft legislation will not impose any requirements but will allow for the Minister for Financial Services to make future decisions to prescribe derivatives for reporting, central clearing and exchange trading of derivatives following further consultation with industry and market assessment'[4].

AGL notes that allowing the Minister for Financial Services the discretion to make future decisions with regards to OTC trading arrangements prolongs the regulatory uncertainty for the sector. AGL's preference, given the NEM's effective OTC arrangements, is for the sector from the outset to be exempted from the possibility of amendment. Such an exemption should cover physical and financial derivative contracts for the energy market, with the 'energy market' contracts covering electricity, gas, carbon permits and environmental certificate transactions.

AGL supports the proposal for additional consultation with industry, coupled with market assessment, prior to any decision being made on changes to energy market OTC arrangements. AGL's position in such a process is that energy market contracts should be exempted as it would likely have adverse impacts – including impinging flexibility to adequately manage market risks. Such an outcome would only lead to increased costs to consumers and potentially increase risk in the sector.

If you have any issues you wish to discuss in regards to this submission please do not hesitate to contact me on 03 8633 6967.

Yours sincerely,

Simon Camroux

Manager Regulation & Market Development

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[4]Commonwealth Treasury, op cit., pg.1.