Australian Treasury Division Head Corporate and International Tax Division Langton Crescent PARKES ACT 2600

For the attention of: Jongsok Oh

Sent by email to: CIVwithholdingtax@treasury.gov.au

 1 December 2016

Dear Sirs,

**Collective Investment Vehicle non-resident withholding taxes**

The Alternative Investment Management Association (AIMA)[[1]](#footnote-1) would like to provide some general comments to the Australian Treasury (‘Treasury’) consultation document on proposals to modify the existing non-resident withholding tax regime for collective investment vehicles (CIVs).

AIMA appreciates the Treasury’s approach to discuss with interested parties whether the Government’s policy is appropriate before addressing the technical aspects of the proposed framework. Further, as we have done previously, we would be pleased to discuss our concerns with the Treasury, should this be considered helpful.

We welcome the Treasury’s proposal to revise the current withholding tax system, as we consider that, by modernising its functioning, investment into Australian assets could be encouraged. This would stand alongside the introduction of the Investment Manager Regime (IMR) as a necessary measure to develop the Australian fund management sector.

AIMA supported and provided input for the introduction of the IMR and we believe that now, when other jurisdictions are seeking to attract investment management businesses, the Government should also address the withholding tax regime. Both investors and fund entities operating in Australia need certainty and would welcome simplicity in the legal framework.

Tax is only one factor considered in investment and business decisions, but it will be relevant to Australia’s international competitiveness as a jurisdiction for investment and investment management and, together with other advantages such as Australia’s highly skilled labour force and a developed regulatory administration, to the ability to attract investment funds within the APAC region[[2]](#footnote-2).

The complexity of Australia’s non-resident withholding tax regime arises from different elements such as the number of rates and the difficulties in determining the appropriate rate, and it does not stand comparison to the approach taken in other jurisdictions,

The policy in the United Kingdom, for instance, has generally been to reduce the incidence of withholding tax. There are many types of financial instruments in respect of which the UK neither imposes a withholding tax nor contemplates a tax liability through assessment from non-residents.

We believe that the Treasury should consider whether a withholding tax is required at all in respect of income derived from financial instruments. However, if the Treasury as a policy matter would retain some level of withholding tax, our view would be:

* Exemption scope to be widened as much possible and to include some instruments that now do not receive such treatment (other than Australian real estate).
* Where a withholding tax is imposed, a rate of 5% should reduce the risk of significant deterrence of investment in Australian assets.

Any reduced withholding tax should apply not just to Australian CIVs and MITs but to all non-residents which invest directly or through Australian and non-Australian investment funds.

In addition to substantive changes to the withholding tax regime, the Treasury should also explore mechanisms and processes that address time sensitivities in obtaining exemptions under domestic provisions or double tax treaties. As an illustration, the UK has a double tax treaty passport scheme (DTTPS) and a similar scheme for syndicated loans, which streamlines the obtaining of clearance for borrowers to pay interest gross.

****Yours faithfully,

**Paul Hale**

**Managing Director, Global Head of Tax Affairs**

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1. AIMA, the Alternative Investment Management Association, is the global representative of the alternative investment industry, with more than 1,600 corporate members in over 50 countries. AIMA works closely with its members to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes, and sound practice guides. Providing an extensive global network for its members, AIMA’s primary membership is drawn from the alternative investment industry whose managers pursue a wide range of sophisticated asset management strategies. AIMA’s manager members collectively manage more than $1.5 trillion in assets. AIMA is committed to developing industry skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the industry’s first and only specialised educational standard for alternative investment specialists. For further information, please visit AIMA’s website, [www.aima.org](http://www.aima.org). [↑](#footnote-ref-1)
2. We support the Treasury’s intent to introduce a corporate and a transparent CIV, which will facilitate onshoring fund management businesses. We note that Hong Kong and other APAC countries have recently begun to take steps to improve their attraction as jurisdictions for fund management. [↑](#footnote-ref-2)