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Dear Sir/Madam

Treasury Consultation: Improving the integrity of stapled structures

We welcome the opportunity to make a submission on the second stage of draft legislation relating to improving the integrity of stapled structures ("**Exposure Draft**").

Our submission concerns the transitional arrangements in Part 2 of Schedule 4 of the Exposure Draft and in particular the requirement that in order to qualify for the transitional arrangements a sovereign entity must hold a "private ruling".

We suggest the requirement that sovereign entities hold a "private ruling" in order to qualify for the transitional arrangements should be removed. There is no such requirement in relation to foreign pension funds and we consider similar transitional arrangements should be in place for sovereign entities and pension funds. While it is acknowledged the pension fund exemption was a specific section of the *Income Tax Assessment Act*, whereas the sovereign immunity was provided under common law, many sovereign entities would have relied in good faith on the Commissioner's practice and statements such as ATOID 2002/45.

We also suggest the term "private ruling" is too restrictive as there is uncertainty as to whether this term would include advice and rulings issued by the Commissioner of Taxation prior to the modern system of "private rulings" introduced in 2005. Sovereign entities which have held the same investments for many years should be entitled to rely on the transitional arrangements. We would recommend the term be widened to include the types of statements and advice issued by the Commissioner in section 361-5(1)(a) of the *Taxation Administration Act 1953*, or to specifically provide that transitional relief will be available where the investment was subject to a ruling provided before 2005 to ensure that the transitional arrangements do not disadvantage sovereign entities which have held long term investments in Australia.

Squire Patton Boggs (AU)

Division Head
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We thank Treasury for the consultation process on this important policy matter and look forward to Treasury's response. If Treasury has any questions in relation to this submission, please contact Louise Boyce [REDACTED]

Yours sincerely

Squire Patton Boggs

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