



15 February, 2018

Ms Lucy Cole-Clark  
Secretariat, Markets Group  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [Lucy.Cole-Clark@treasury.gov.au](mailto:Lucy.Cole-Clark@treasury.gov.au)

Dear Ms Cole-Clark

**TREASURY LAWS AMENDMENT (DESIGN AND DISTRIBUTION  
OBLIGATIONS AND PRODUCT INTERVENTION POWERS) BILL 2018  
STOCKBROKERS AND FINANCIAL ADVISERS ASSOCIATION (“SAFAA”)  
SUBMISSION**

We refer to our previous communication in relation to the Consultation on the Exposure Draft of the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018 (“The Exposure Draft”) and accompanying Explanatory Memorandum.

As we foreshadowed, SAFAA proposed to make a limited submission in relation to the financial products to which the Exposure Draft applied, which we now set out in this letter. We apologise for not providing this Submission sooner, however pressing matters over the last fortnight have prevented us from doing so.

## Exclusion of additional exchange traded financial products

We note that the provisions of the Exposure Draft do not apply to “an ordinary share in a company”, and this has not changed from the previous. We are entirely in support of this.

SAFAA is however disappointed that the various submissions which had previously been made to also exclude a number of other products which are exchange traded, do not appear to have been adopted.

SAFAA strongly submits that the following exchange traded products are likely to be caught by the legislation, but should be excluded, namely:

- Exchange Traded options (“ETO’s”)
- Warrants
- Futures contracts
- LEPOs

In addition, there are other products which are exchange traded, and which, if they are not excluded, no obligations should be extended to the Market Participant effecting a transaction in them under the relevant Market Rules. These are:

- Exchange Traded Funds (“ETF’s”)
- Exchange traded structured products
- Hybrid securities

Market Participants are subject to strict obligations under Market Integrity Rules with respect to obligations to clients in trading these products. There are product design requirements set out in the Rules of the listing market. ASIC already has powers to intervene and suspend dealings in the market for exchange traded products under the Corporations Act.

SAFAA submits that the regime in the Corporations Act and Market Rules appropriately deals with exchange traded products, and these should be excluded under the proposed legislation.

The nature of the Exposure Draft regime is more suited to products which are issued to investors off-market and are not suited to products which can be acquired after their issue by any investor on the anonymous secondary market.

If there are any issues arising from any of the above documents, could you please contact Peter Stepek, Policy Executive, on [REDACTED] [REDACTED] [REDACTED] or email [REDACTED].

Yours sincerely,

A handwritten signature in black ink that reads "Andrew Green". The signature is written in a cursive style with a large initial 'A' and 'G'.

**Andrew Green**  
**Chief Executive**