

5 September 2025

Competition Taskforce

**The Treasury**

Langton Cres

Parkes ACT 2600

By email: [CompetitionTaskforce@treasury.gov.au](mailto:CompetitionTaskforce@treasury.gov.au)

## ASIFMA Response to Treasury Consultation Paper on Reform to Non-Compete Clauses and Other Restraints on Workers

Dear Sir/Madam,

The Asia Securities Industry and Financial Markets Association (“**ASIFMA**”) <sup>1</sup> appreciates the opportunity to respond to this important consultation document.

On behalf of its members, we are writing to communicate our support for the positions taken by the Australian Financial Markets Association (“**AFMA**”) in its response to this consultation paper. This includes, but is not limited to:

- The recommendation to maintain the current legal framework, as it remains fit for purpose;
- Disadvantaging Australia’s R&D industry development, overall attractiveness and ability to compete as a financial centre with other regional hubs if non-compete clauses are banned;
- Applying any reforms only to low to middle-income employees, to the extent that any reforms are implemented at all;
- Determining the threshold for a high-value employee by applying the high-income threshold to the average total income of the employee over the preceding three years, including variable components such as bonuses and commissions;
- Not penalising employers for including a non-compete clause in an employment agreement that is rendered unenforceable by statute;
- Retaining existing non-compete clauses;
- A transitional period of at least 18 months for any reforms, to the extent that any are implemented; and
- There being no basis for statutory restrictions on the use of non-solicitation clauses.

Given ASIFMA’s vast membership base in the financial services sector across the Asia-Pacific region, we particularly draw your attention to AFMA’s comments with respect to a potential diminution of

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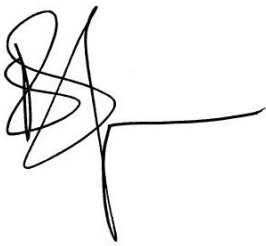
<sup>1</sup> ASIFMA is an independent, regional trade association with over 150 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, and competitive Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the United States and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region. More information about ASIFMA can be found at: [www.asifma.org](http://www.asifma.org).

Australia's ability to attract foreign intellectual capital, R&D and high-productivity, high-value work and the nation's overall international competitiveness if either of the two proposed reform options for high-income employees are implemented. Instead, they risk having the presumably unintended effect of stifling capital attraction onshore and encouraging global businesses to deploy high-value talent in other jurisdictions within the Asia-Pacific region which will protect their legitimate interests in a manner that lends itself to increased business confidence and investment.

We would strongly encourage the Treasury to reconsider the need and basis for the proposed reforms. At an overall level, we, like AFMA, believe that the current legal framework that applies to non-compete clauses strikes the appropriate balance between protection of employers' legitimate business interests and the rights of employees – including, but not limited to, those employees that hold valuable business intellectual property and confidential information – and that regulatory intervention is neither necessary nor justifiable.

We would be pleased to discuss our response in further detail. Should you wish to do so, please do not hesitate to contact me at [rkapoor@asifma.org](mailto:rkapoor@asifma.org).

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'R' followed by a horizontal line and a vertical stroke.

Rishi Kapoor  
Executive Director  
Head of Technology and Operations  
Asia Securities Industry & Financial Markets Association