SUBMISSION

Corporations Amendment (Emissions Reduction Fund Participants) Regulation 2015

Consultation Paper, January 2015

RAMP Carbon is pleased to provide a submission to Treasury in relation to the proposed amendments to the Australian Financial Services Licence (AFSL) requirements for aggregators participating in the Emission Reduction Fund (ERF). RAMP Carbon is a carbon advisory and project development company and has been involved in the development of a number of Carbon Farming Initiative (CFI) methodologies and projects, and intends to participate as an aggregator in the ERF.

Founded in 2010, RAMP Carbon has offices in Melbourne and Mexico City, and is involved in the development of emission reduction projects across a range of emissions trading schemes and markets. We hold AFSL 430036 and provide financial advice, deal and arrange transactions in Australian Carbon Credit Units (ACCUs).

Proposed Exemptions

RAMP Carbon supports each of the proposed exemptions as set out in the Consultation Paper:

- carbon abatement contracts, which a proponent and Clean Energy Regulator (CER) enter into after a successful ERF bid, would not be regulated as financial products;
- certain eligible aggregation arrangements would not be regulated as financial products, including a targeted exemption for aggregation arrangements from the definition of 'managed investment scheme';
- carbon service providers who only provide financial product advice which is incidental to technical advice relating to an ERF project would not be regulated as financial advisers.

Each of these exemptions to holding an AFSL will reduce the regulatory barriers to participation in the ERF faced by aggregators and other service providers. However, for these amendments to be effective we believe that they must be complimented by further exemptions otherwise the majority of aggregators participating in the scheme will still be required to hold an AFSL.

Dealing in ACCUs

The Consultation Paper correctly identifies the potential under current law for aggregators to be engaged in dealing of ACCUs in the course of their usual business activities.

"…aggregators may enter other contracts to buy or sell ACCUs. For example, they may buy or sell ACCUs on a secondary market if the aggregation generates more or less ACCUs than

required under the carbon abatement contract. This would require an AFSL if the aggregator is considered to be buying or selling those ACCUs on behalf of the site owners." (page 12)

It is highly likely that aggregators will need to engage in some dealing in ACCUs in order to undertake prudent risk management activities for their project portfolios, as well as in situations where they need to purchase a shortfall of credits in order to deliver the required number of ACCUs to the CER under a carbon abatement contract.

Without an exemption for dealing in ACCUs on behalf of site or project owners, or to ensure compliance with contractual arrangements with the CER, it is likely that all aggregators will still be required to hold an AFSL and hence efforts to reduce the regulatory burden on aggregators will be ineffectual.

In addition to the possible exemption for dealing outlined in the Consultation Paper we would also propose that the dealing exemption be extended to situations where an aggregator sells ACCUs to an entity other than the CER where that entity has a compliance obligation on it to reduce or offset their emissions. Whilst the *Safeguard Mechanism* has yet to be finalised and will be subject to a separate public consultation later in 2015, it is anticipated by many that large emitters covered by the scheme may have the option to purchase and retire ACCUs in respect of emissions above their designated baselines.

In this instance, where an entity is purchasing ACCUs for their 'own use', and an aggregator is supplying those ACCUs to aide in complying with Government policy, we believe that the same rationale for an AFSL exemption holds as for when an aggregator sells to the CER under a carbon abatement contract.

Custodial & Depository Services

Question 11 in the Consultation Paper asks whether a specific exemption is required for aggregators providing custodial or depository services. We would support such an exemption for the reasons identified in the Consultation Paper (page 13). It is highly likely that aggregators will at some point hold ACCUs issued to them by the CER or transferred to them by a project owner. These ACCUs will subsequently be transferred to the CER or other organisation in order to fulfil obligations under carbon abatement contracts.

Without an exemption for these activities, it is likely that the vast majority of aggregators will still be required to hold an AFSL and hence efforts to reduce regulatory burden will be ineffectual.

Alternative Targeted Consumer Protections

We fully support the approach outlined in the Consultation Paper for alternative approaches to consumer protection for participants in the ERF. The development of standardised disclosure documents and aggregation contracts would be of great benefit to the industry. We believe that such documentation would function in a similar way to the Australian Financial Markets

Association (AFMA) environmental products contracts providing a standardised approach to transactions, settlements and disputes.

Conclusion

RAMP Carbon supports the proposed amendments and exemptions outlined in the Consultation Paper. However, we believe that if regulatory barriers to the participation by aggregators in the ERF are to be reduced, exemptions must be provided for all reasonable activities undertaken by a typical aggregator in the course of normal business. This includes dealing in ACCUs both in respect of delivering on carbon abatement contracts with the CER, and in the secondary market. As well as providing custodial or depository services for project or site owners. Without these broader exemptions it is likely that most aggregators seeking to participate in the ERF will still be required to hold an AFSL, thereby maintaining significant regulatory burden and rendering other proposed exemptions ineffectual.

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