

File Name: 2015/18

26 June 2015

Manager
Banking and Capital Markets Regulation Unit
Financial System and Services Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: financialmarkets@treasury.gov.au

Dear Manager

RE: OTC Derivatives single-sided trade reporting

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in relation to the draft regulations implementing the single-sided reporting relief to the OTC derivatives reporting obligations (draft regulations).

About ASFA

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90 per cent of the 12 million Australians with superannuation.

General comments

ASFA supports the intention behind and the relief provided by the draft regulations.

Specific comments

Our concern with the draft regulations is that the relief is different where transacting with Australian or foreign counterparties. If dealing with an Australian counterparty, the exemption is available where either the counterparty is required to report under Australian reporting rules or the counterparty actually reports in accordance with Australian reporting rules (even though it is not required to do so).

On the other hand, where the counterparty is a foreign entity, the exemption is only available where:

- the counterparty is subject to foreign reporting rules that are substantially equivalent to Australia's reporting rules;
- the counterparty actually reports in accordance with the foreign reporting rules to a prescribed trade repository; and
- the report is actually "tagged" to Australia.

We believe that the requirement that the counterparty be subject to foreign reporting rules that are substantially equivalent to Australia's reporting rules is unnecessary. The appropriate requirement should be similar to trading with an Australian counterparty – being that the counterparty is required to report the trade under their rules and that the counterparty actually reports in accordance with those rules and 'tags' the trade to Australia.

If it is considered that the requirement for reporting entities to be in a jurisdiction where the reporting rules are "substantially equivalent" to Australian reporting rules is important then a list of countries could be prescribed by the Government or ASIC, rather than requiring each reporting entity to form its own view.

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If you have any queries or comments in relation to the content of our submission, please contact Policy Adviser, David Graus, on (02) 8079 0837 or by email dgraus@superannuation.asn.au.

Yours sincerely



Glen McCrea
Chief Policy Officer