



20 January 2020

Manager
Financial Services Reform Taskforce
Treasury
Langton Cres
Parkes ACT 2600

By email: regulatorreformcoord@treasury.gov.au

Dear Manager

Financial Regulator Reform (No.2) Bill

The Australian Financial Markets Association (AFMA) is making comment on the exposure draft of the Financial Regulator Reform (No.2) Bill (the Bill).

AFMA has long been a strong advocate for cooperation between ASIC and APRA and this is in the clear interest of regulated entities and compliance efficiency. This need is now acute given the overlap of joint regulatory responsibilities flowing from implementation of the *Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (Report) recommendations of which the Bill forms part. Accordingly, implementation of recommendations 6.9 and 6.10 of the Report is supported.

The Bill appears to give effect in full to the recommendations 6.9 and 6.10 and no technical drafting issues have come to our attention requiring comment. We do query how the new information sharing scheme is intended to operate alongside the existing information sharing arrangements at section 56 of the APRA Act and section 127 of the ASIC Act.

Legal right protections important

The Bill does not interfere with the maintenance in regard to shared information of the protections provided by section 56 of the APRA Act and section 127 of the ASIC Act as well as the specific provision for legal professional privilege. These protections are of fundamental importance to the protection of legal rights and their maintenance is welcomed.

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Additional elements required

Compliance with statutory information requests from the regulators is a major challenge for regulated entities given that these are rising in volume, often complex in nature, require considerable compilation of disparate material, need to be entirely accurate and to be produced within often tight time limits. Industry looks to the information sharing scheme to provide an efficiency benefit by avoidance of duplicated information requests by the two regulators. In this we consider that the Bill does not go far enough.

Accordingly, the legislation should go further and do two additional things:

1. Place a positive statutory requirement on regulators to do a preliminary check with the other regulator before making an information request of a jointly regulated entity as to whether the information is held by the other regulator that would satisfy the request.
2. Allow a jointly regulated entity to respond in full satisfaction of a statutory notice requiring information by indicating that the requested information has already been provided to the other regulator.

The oversight of the obligation to co-operate by the Financial Regulator Oversight Authority, as part of the authority's mandate to assess and report on ASIC and APRA's effectiveness is an important part of the new regime and will be a matter monitored with interest by AFMA in the future as successful regulator cooperation is a goal of considerable importance.

Please contact David Love either on 02 9776 7995 or by email dlove@afma.com.au if further clarification or elaboration is desired.

Yours sincerely



David Love
General Counsel & International Adviser