



15 December 2023

Director, Policy and Rules
AUSTRAC
323 Castlereagh St
Sydney NSW 2000

Email: aml_ctf_rules@austrac.gov.au

Dear Director,

Chapter 21 of the AML/CTF Rules – Proposed Amendments

The Australian Financial Markets Association (**AFMA**) represents the interests of over 125 participants in Australia's wholesale banking and financial markets. Our members include Australian and foreign-owned banks, securities companies, treasury corporations, traders across a wide range of markets and industry service providers. A significant proportion of AFMA's members are reporting entities for the purposes of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (**the AML/CTF Act**).

AFMA is pleased to lodge a submission into AUSTRAC's consultation on proposed amendments to Chapter 21 of the AML/CTF Rules. Broadly, the amendments seek to add two financial markets, namely Australian Securities Exchange Limited (**ASEL**) and FEX Global Pty Limited (**FEX**) as "specified financial markets" for the purpose of the Rules. This would result in transactions in respect of securities and derivatives on these markets from the requirements under the AML/CTF Act on the basis that there is no reasonable way for the seller to know the identity of the buyer.

AFMA supports the intent of the proposed amendments. However, we support more principles-based drafting of the ambit of the exemption to reduce the instances where an amendment to the Rules needs to be made whenever a new exchange operates in Australia. This is elaborated upon below.

Proposed Amendment to the Rules

Currently, Chapter 21 will provide an exemption where a financial market is a "prescribed financial market" or a "specified financial market." A prescribed financial market is defined under the *Corporations Regulations 2001* and currently includes:

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- Asia Pacific Exchange Limited (now Sydney Stock Exchange Limited);
- ASX Limited;
- Chi-X Australia Pty Limited;
- National Stock Exchange of Australia Limited; and
- SIM Venture Securities Exchange Limited (now IR Plus Securities Exchange Limited).

AFMA is not aware of any reason as to why neither ASEL nor FEX is reflected as a “prescribed financial market.” It is further noted that IR Plus Securities Exchange Limited was acquired by National Stock Exchange of Australia Limited and accordingly there are only four prescribed financial markets that are operating in Australia at present.

Each of the four prescribed financial markets plus the two proposed specified financial markets are ASIC regulated Tier-1 Market Operator licensees with participation eligibility for both retail and wholesale participation and are the only six market operators licensed in this way.

Accordingly, AFMA’s preferred approach to drafting the Chapter 21 exemption would be not to specify individual markets as “specified financial markets” but rather to define an exempt market as one which is a licensed Tier-One Market Operator that allows both retail and wholesale participation under the provisions of the *Corporations Act 2001*. This would future-proof the exemption and ensure that the exemption remains contemporaneous when new markets are established in Australia or markets change name or form.

Please let me know of any queries or if you would like to discuss.

Yours sincerely,



Rob Colquhoun
Director, Policy