



5 January 2026

Scams Policy Unit  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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

Dear Sir/Madam

### **Scams Prevention Framework – Draft Law Package and Position Paper**

The Australian Financial Markets Association (AFMA) represents the interests of over 130 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. AFMA's members largely operate in wholesale and institutional markets.

AFMA is pleased to provide a submission in response to the draft legislation and Treasury Position Paper "Advancing Australia's Scams Prevention Framework (**SPF**) through Rules and Codes" (**the Position Paper**).

#### **Executive Summary**

AFMA notes the following by way of executive summary:

- The proposed exclusion of "wholesale banking" from the SPF is consistent with AFMA's previous submissions and appropriate from a policy perspective;
- AFMA supports a mechanism to give effect to the exclusion being to carve-out wholesale banking services from being covered banking services;
- In addition, the definition of "SPF consumer" should be aligned to the definition of "retail" under the *Corporations Act*; and
- These two mechanisms are not mutually exclusive and AFMA supports both being included in the legislation to give optimal effect to the proposed policy intent to exclude wholesale banking from the SPF.

## **AFMA Policy Position**

AFMA's engagement in relation to both Government and industry led initiatives to prevent scams has been to state its policy position that the only authorised deposit-taking institutions (**ADIs**) that should be subject to the Mandatory Code are those that are authorised by APRA to provide banking services to retail customers. AFMA's policy position remains that foreign banks operating via Australian branches should be excluded because their APRA ADI authorisations only permit them to conduct banking business to "wholesale clients". This policy position is predicated on the fact that the SPF is essentially consumer-protection, with the obligations of in-scope entities largely designed to assist consumers to not be caught by a scam and to mitigate the harm arising from a scam.

This policy position appears to be reflected in the draft legislation and Position Paper. As confirmed by Treasury, there is a current policy position to specifically exclude "wholesale banking" from the application of the SPF. AFMA appreciates this position, while acknowledging that the final policy is ultimately a matter for Government. The purpose of this submission is to provide AFMA's views as to the appropriate mechanisms to give effect to the stated policy position to exclude wholesale banking.

AFMA believes that there are two steps needed to appropriately exclude wholesale banking:

- (i) To align the definition of "SPF consumer" to prudential licensing concepts, ensuring that ADIs that are prevented from providing services to retail customers are similarly prevented from providing services to SPF consumers; and
- (ii) Excluding wholesale banking services from being "covered banking services" under Section 11(3) of the draft legislation.

### **Definition of SPF Consumer**

AFMA understands that the current proposal from Treasury to give effect to the exclusion of wholesale banking from the SPF is through the definition of "SPF consumer." If properly calibrated, an ADI that is prevented from providing services to retail customers is similarly prevented from providing services to SPF consumers, meaning that such ADIs have no obligations under the SPF.

In order for this mechanism to be effective, it is necessary that there is absolute alignment between the definition of SPF consumer and the definition of "retail" for licensing purposes.

On this basis, AFMA recommends that, at least in relation to covered services that are banking services, the definition of SPF consumer not be separately defined but rather be aligned to the *Corporations Act* definition of "retail." Given that ADIs that are prevented from providing services to retail clients will have established practices and protocols in place to ensure that the licensing restrictions are adhered to, this will add further confidence that such ADIs have no obligations under the SPF.

Crafting the definition of SPF consumer in this way will also future-proof any refinements to the definition of retail in the *Corporations Act*.

## Designation of Banking Services

The other step requested to give effect to the exclusion of wholesale banking from the SPF is to exclude wholesale banking services from being “covered services.” This could be achieved through an addition to Section 11(3) of the draft legislation, i.e.:

“A service is not a covered banking service if it is provided by a restricted ADI or ***an ADI that is not licensed to provide services to retail customers.***” (Emphasis added).

This amendment gives effect to the policy intent while preserving the ability of the Government to adopt a singular definition of SPF consumer. There is benefit associated with leveraging the licensing requirements to the ambit of the SPF in terms of clarity as to affected ADIs.

\* \* \* \*

AFMA appreciates the acknowledgement that wholesale banking should not be within scope of the SPF and is committed to continue to work with Treasury and Government as to the optimal approach to achieve this exclusion. Please contact me on (02) 9776 7996 or [rcolquhoun@afma.com.au](mailto:rcolquhoun@afma.com.au) if you have any queries about this submission.

Yours sincerely,



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