



30 May 2016

Mr Jeremy Francis  
Tax Counsel Network  
Australian Taxation Office  
GPO Box 9990  
Perth WA 6000

Dear Jeremy,

**Indicator Lending Rate – Subsection 247-20(5)  
Technical Discussion 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. Our members are the major providers of services to Australian businesses and retail investors who use the financial markets and comprise the overwhelming majority of issuers of capital protected products to which Division 247 of the *Income Tax Assessment Act 1997* (**the 1997 Act**) applies.

We appreciate the opportunity to provide feedback on the ATO's Technical Discussion Paper titled "Income tax: what is the Indicator Lending Rate applicable under subsection 247-20(5) of Division 247 of Part 3-10 of the *Income Tax Assessment Act 1997* and subsection 247-80(4) of Division 247 in Part 3-10 of the *Income Tax (Transitional Borrowings) Act 1997* in respect of capital protected borrowings (CPBs)?" (**the Technical Discussion Paper**), together with the accompanying Draft Taxation Determination.

As agreed with the ATO, AFMA has undertaken limited consultation with affected members in relation to the Technical Discussion Paper and the Draft Tax Determination. The overwhelming response from the members was that the most important outcome is clarity of the position in a manner that may be relied upon by affected borrowers before 30 June 2016. As we have previously noted, the announcement of recent reductions in Reserve Bank of Australia's Cash Rate, and the likelihood therefore of a reduction in both the Indicator Lending Rates for owner-occupiers and investors when published in June 2016, has highlighted the need for clarity in terms of the applicable rate.

We agree with the position expressed in both the Technical Discussion Paper and the Draft Taxation Determination that the appropriate rate for the purposes of applying Division

247 of the 1997 Act (as well as the *Income Tax (Transitional Borrowings) Act 1997*) is the Indicator Lending Rate for Standard Variable Housing Loans – Investor and that this has effect from 11 September 2015.

Accordingly, we propose no changes to either the Technical Discussion Paper or the Draft Taxation Determination and request that the ATO expedite the release of the final Taxation Determination on or before 30 June 2016. To the extent that this is not feasible, we would like to seek further engagement with the ATO to explore ways in which the views expressed in the Technical Discussion Paper and the Draft Tax Determination may be binding on the Commissioner prior to 30 June 2016.

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Please contact me if you would like to discuss further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rob Colquhoun', written in a cursive style.

Rob Colquhoun  
Director, Policy