



**Submission to Productivity Commission Draft Report into  
Barriers to Services Exports by the  
Australian Financial Markets Association**

**18 September 2015**

## 1. About AFMA

The Australian Financial Markets Association (AFMA) was formed in 1986. Today we are the leading industry association promoting efficiency, integrity and professionalism in Australia's financial markets – including the capital, credit, derivatives, foreign exchange and other specialist markets.

We have more than 130 members, from Australian and international banks, leading brokers, securities companies and state government treasury corporations to fund managers, energy traders and industry service providers. Our role is to provide a forum for industry leadership and to advance the interests of all these market participants.

AFMA promotes best practice in financial markets so they can continue to contribute to Australia's economic health. We do this by:

- Effectively managing Australia's \$78 trillion over-the-counter (OTC) markets;
- Developing widely accepted industry standards for transactional processing;
- Dealing with policy makers on effective regulation of Australia's financial markets to inspire investors' confidence; and
- Encouraging high standards of professional conduct through our professional development and accreditation programs.

*Our mission – advancing the interests of members*

- Promote Australia as a global centre for financial services;
- Help members grow their businesses and contribute to Australia's economic wellbeing;
- Develop new markets for financial products;
- Encourage existing markets to reach their full potential;
- Lead and sustain effective management of OTC financial markets;
- Represent market participants in exchange-traded markets to ensure effective and efficient market processes and regulation;
- Encourage high standards of professional conduct;
- Develop individual expertise through professional development and accreditation programs; and
- Promote government policies and business conditions that support a strong financial sector.

## 2. Comments on Draft Recommendations

AFMA comments on the draft recommendations as follows.

### DR 4.1

**Under Australia's Foreign Investment Policy, the Australian Government should make screening thresholds for examination of investment proposals by the Foreign Investment Review Board consistent across investors from different countries.**

AFMA support this recommendation.

The federal government has recently introduced to parliament amendments to the Foreign Acquisitions and Takeovers Act (FATA). These amendments include provision for application fees for foreign investment applications where none currently apply. It would be appropriate for the Commission to comment on the extent to which these fees will act as an additional barrier to FDI impacting the services sector. AFMA note that the proposed fees are not calibrated on the basis of cost recovery principles, but are instead intended to meet the increased cost of expanded data collection, compliance and enforcement activities in relation to foreign investment in residential real estate and agricultural land.

It would be appropriate for the Commission to comment on the incidence of these fees, whether they act as a tax on domestic capital formation in service exporting industries and their compatibility with the government's Cost Recovery Guidelines. It would also be appropriate for the Commission to recommend that the government not seek to levy fees on foreign investors for the purposes of recovering general regulatory costs that do not directly benefit foreign investors and the vendors of domestic assets. We refer the Commission to our submission to Treasury's consultation on the government's Foreign Investment Reforms dated 17 July 2015 for further information.<sup>1</sup>

The draft report notes that 'wide-reaching reforms to the foreign investment framework are not canvassed in this study' (p. 101). Given that the issue of FDI regulation has arisen in the context of this inquiry as well as the Commission's concurrent inquiry into business set-up, transfer and closure, it would be appropriate for the Commission to seek a reference from the government for a comprehensive inquiry into impediments to cross-border capital flows, including FDI and portfolio investment. Such an inquiry would be a natural complement to the current inquiry into barriers to services exports and would address a significant oversight on the part of the Financial System Inquiry's Final Report.

### DR 4.6

**The Australian, state and territory governments should only provide grants to businesses seeking to export where they address a market failure, or meet an equity objective, and the communitywide benefits of providing the grants would be expected to outweigh the costs.**

### DR 4.8

**The Minister should amend the Statement of Expectations to confine the commercial role of the Export Finance and Insurance Corporation solely to providing export finance to newly exporting**

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<sup>1</sup> [http://www.afma.com.au/policy/submissions/R17-15\\_FATAAmends.pdf](http://www.afma.com.au/policy/submissions/R17-15_FATAAmends.pdf)

small and medium-sized enterprises. Small and medium-sized enterprises should be defined as entities, including any related entities, with fewer than 100 full-time equivalent employees or annual turnover of less than \$50 million.

The Australian Government should make amendments to the *Export Finance and Insurance Corporation Act 1991* (Cwlth) to this effect.

#### DR 4.9

The Minister should amend the Statement of Expectations to require the Export Finance and Insurance Corporation (EFIC) Board to establish a performance management framework, based on a clearly defined and rigorous objective under the *Export Finance and Insurance Corporation Act 1991* (Cwlth), directed at market failures affecting newly exporting small and medium-sized enterprises. The framework should be developed in consultation with other Australian Government agencies, and use relevant performance benchmarks and indicators for EFIC's business units, including treasury operations.

EFIC should publicly report its performance against this framework in its annual report and corporate plan.

AFMA support recommendations 4.6, 4.8 and 4.9 . It would be appropriate for the Commission to note in support of its recommendations that the US Congress has allowed the charter for the US government-funded Ex-Im Bank to expire as of 30 June this year. The US debate over Ex-Im Bank further highlights the appropriateness of circumscribing the role of EFIC to limit government subsidies to large enterprises in credit markets where there is no evidence of market failure.

#### DR 6.1

The Australian Government should continue to progress the Asia Region Funds Passport and, through work in international forums, encourage other jurisdictions to participate in the Passport.

AFMA support this recommendation.

#### DR 6.2

The Australian Government should simplify Australia's regime of withholding taxes through reforms that pursue greater uniformity in the rates applying to different types of investment, a reduction in the range of domestic exemptions available and the negotiation of more consistent withholding tax rates in tax treaties.

The Australian Government should not introduce additional concessional withholding tax rates for the Asia Region Funds Passport as future changes to the withholding tax regime should seek to introduce greater — rather than lesser — uniformity.

#### DR 6.3

During the course of the Tax White Paper process the Australian Government should make a determination on the optimal rate for withholding taxes having regard to:

- the effect of withholding taxes on domestic and international investment markets, and on the supply of financial services by Australian providers
- the prevalence of location-specific economic rents
- the secondary effects of withholding tax on land rents and wages

- **interactions with other taxes**
- **any relevant international developments.**

AFMA support recommendations 6.2 and 6.3. While it is appropriate for the Commission to defer consideration of withholding tax rates to the Tax White paper process, it would nonetheless be appropriate for the Commission to highlight the potential benefits of a reduction in withholding tax rates, including the scope for dynamic revenue gains that could be expected to offset any static revenue losses.

#### **DR 6.5**

**The Board of Taxation should review the Investment Manager Regime no later than 2020. This review should:**

- **assess the effectiveness of the Regime in attracting additional investment and the effect on tax revenue**
- **address any concerns related to inappropriate use of the Regime**
- **publicly consult to ensure that administrative and compliance costs associated with the Regime are minimised.**

AFMA support this recommendation.

#### **DR 6.6**

**The Australian Government should continue to facilitate the development of a range of collective investment vehicles as part of the Tax White Paper process. Options should be evaluated with an eye to their taxation implications and the possibility of inadvertently creating distortions in the domestic market.**

AFMA support this recommendation.