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Australian Productivity Commission
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By email: transtasmanreview@pc.gov.au

Strengthening economic relations between Australia and New Zealand – A Joint Study

Issues Paper, April 2012

Thank you for the opportunity to provide comments to the Issues Paper.

About AFMA

The Australian Financial Markets Association (AFMA) is the leading industry association promoting efficiency, integrity and professionalism in Australia's financial markets and provides leadership in advancing the interests of all market participants. These markets are an integral feature of the economy and perform the vital function of facilitating the efficient use of capital and management of risk. Market participants perform a range of important roles within these markets, including financial intermediation and market making.

AFMA represents over 130 members, including Australian and international banks, leading brokers, securities companies, state government treasury corporations, fund managers, traders in electricity and other specialised markets and industry service providers in the financial markets.

Comments in response to the Issues Paper

1. Mutual recognition of anti-money laundering regimes

These comments have been prepared by AFMA's Anti Money Laundering Committee, which is primarily concerned with the policy aspects of AML regulation. While such regulation is necessary to ensure that both Australia and New Zealand meet their external obligations in relation to the prevention of money laundering and terrorism financing, its practical implementation should not, of itself, provide an impediment and or barrier to doing business in both countries simultaneously.

Indeed, AML legislation is exactly the type of regulation focussed on financial services which could easily be subject to a mutual recognition regime and

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therefore, minimise its impact on businesses that operate in both jurisdictions. This would meet a number of the principles of the Trans-Tasman integration policy.

The existing Australian AML legislation does not have regard to the comparability of other jurisdictions including New Zealand. Our understanding is that this has also not yet been contemplated with the new New Zealand AML regulatory reforms. In order to create efficiency for regulated entities, mutual recognition should be given for Australia and New Zealand.

Many of AFMA's members operate businesses in both Australia and New Zealand. Should mutual recognition for AML purposes not be invoked, there will be no ability to rely on each other's regulatory systems. The consequence is therefore that processes are duplicated and run in parallel. This will be especially apparent in the customer due diligence process (know-your-client or "KYC" process).

For example, a financial institution may have an existing client of the Australian business who wishes to contract with the financial institution's own New Zealand arm. Ideally, the existing due diligence processes that meet the AML/CTF Act in Australia would be applied in New Zealand, and through mutual recognition, this due diligence would meet the New Zealand AML requirements. If however, the New Zealand AML legislation imposes different document/information gathering obligations, it would mean that the client would be approached again (a second time) and the further material would need to be obtained. This is operationally inefficient, consumes time and resources and can have little proportionate AML benefit. This is exacerbated if the material must be obtained in certified or original form.

The consequences of not operating a mutual recognition regime where there are close ties between countries can be observed from the European experience. Disparate AML due diligence frameworks operating in Europe under the first (2001) and second (2004) directives were addressed by the third directive in 2007. This enabled member states to rely on due diligence obtained in other member states without the need to augment that due diligence, overcoming the existing practical impediment in such situations.

While Australia and New Zealand are clearly not bound by the same legislative framework, it would appear to us that the lessons learned from the EU concerning the implementation of AML systems could be applied here and lead to a more productive outcome without the duplication of two differing AML due diligence systems.

The implementation of a mutual recognition regime with respect to AML would meet the objectives of the Trans-Tasman Mutual Recognition Arrangement and the principles of a Single Economic Market (SEM). We would be happy to elaborate on any of the further practical consequences of the failure to implement a mutual recognition regime.

2. Carbon trading

Another area where trans-Tasman economic relations can be strengthened is in carbon trading.

Both Australia and New Zealand have established similar emissions trading schemes. It is our membership's view that they would benefit from linking of these schemes. Linked schemes would have a greater depth of liquidity for market participants. For these participants, particularly those that operate in both markets, increased liquidity would bring increased flexibility and lower costs.

The Government has started down the path of preparing to link the schemes. There are a number of notable barriers that AFMA has opposed which could limit the potential benefits of linking the schemes in the first six years of the Australian scheme, these being the fixed price period and the subsequent floor price. Removing these design features may allow earlier and deeper linking of the schemes.

In any case, we would support the Government continuing to work to link the schemes at the earliest opportunity for the benefit of the market.

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Please contact me if you have any queries in relation to this submission.

Yours sincerely

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