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Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600



Submitted online

Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Bill 2025

The Australian Financial Markets Association (AFMA) is pleased to respond to the Senate Economics Legislation Committee's inquiry into the Treasury Laws Amendment (Strengthening Financial Systems and Other Measures) Bill 2025 and thanks the committee for the invitation to make a submission. AFMA has some significant concerns about several proposals contained within this Bill that we urge the committee to consider.

AFMA is the peak industry body for Australia's financial markets industry – including the capital, credit, derivatives, foreign exchange, and other specialist markets. AFMA represents more than 130 industry participants from Australian and international banks, leading brokers, securities companies, government treasury corporations to asset managers, energy firms, carbon market participants, and industry service providers.

1. Schedule 3: Frequency of periodic reviews

AFMA does not accept or agree with the rationale put forward in the Explanatory Memorandum (EM) that reducing the frequency of Financial Regulator Assessment Authority (FRAA) reviews allows for more comprehensive reviews by the FRAA. AFMA believes a reduction in frequency will in fact, have the opposite effect and significantly weaken the intended accountability and oversight measures.

AFMA was deeply concerned by the 2023-24 Budget decision to reduce the FRAA review cycle as timely and thorough reviews of both APRA and ASIC are essential in ensuring the effectiveness and capability of our financial regulators. As the committee will be aware, the frequency of the FRAA review cycle was stipulated in the Hayne Royal Commission recommendation to establish the oversight authority. With the ever-growing regulatory priorities of regulators and changing nature of finance and technology globally, we believe a five yearly review cycle is out of pace with the rate of change within the sector. It likewise poses the risk that by the time FRAA recommendations are developed and addressed, such actions may not be appropriate or even relevant. At the same time, AFMA also believes continuity of panellists to be an important function of the FRAA.

Whilst we are sympathetic to the regulatory burden of reviews and inquiries for regulators, as expressed in the EM, reviews into Australian organisations' frameworks and practices in relation to governance, capability, and accountability are commonplace and regularly carried out or formally required by regulators. We believe it only reasonable that regulators are held to the same standards. We also appreciate that APRA and ASIC operate with some accountability given that both agencies do report on their activities, but only the FRAA is able to provide regular rigorous and consistent independent expert external analysis on the regulators' effectiveness in delivering against their

mandates. Reducing the frequency in which they can do this undermines the purpose, insights and outcomes of the FRAA.

AFMA urges the committee to consider the risk that a reduction poses to consumers and industry for a small budget saving. AFMA recommends the review cycle remain on a biennial basis.

2. Schedule 6: Extending operation of the prohibiting energy market misconduct provisions

As the committee is aware, the Prohibiting Energy Market Misconduct (PEMM Act) was introduced as part of a series of reforms following the ACCC's 2017 Retail Electricity Pricing Inquiry, designed to lower retail electricity prices by targeting behaviour in the wholesale market. It is AFMA's assessment that the PEMM Act has had little or no impact on market conduct or retail prices and that other reforms, such as the Default Market Offer and Market Liquidity Obligation, have been more effective and largely removed the need for the PEMM Act.

Not only do we believe that the Act has fallen short of its objectives, but we note that there is significant overlap with the work of other regulators. We are not aware that the ACCC has used the PEMM Act powers to achieve any meaningful improvements for consumers and consider that introducing the ACCC into areas already regulated by the AER and ASIC has confused and duplicated the regulatory architecture, which ultimately increases compliance costs.

AFMA, and other stakeholders, expressed these concerns at the January 2025 review of the Act conducted by DCCEE¹. Despite this, the final report of the review of the PEMM Act recommended not repealing it on the basis that the department believes it may deliver some unspecified benefit, despite identifying that it largely duplicated other reforms. At a time in which government is seeking to reduce regulatory overlap and red tape, AFMA considers that any regulations which are not delivering a demonstrable benefit, such as the PEMM Act, should be reformed or repealed.

AFMA would welcome the opportunity to discuss this submission further and would be pleased to provide further information or clarity as required. Please contact Monica Young [REDACTED]
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Yours sincerely,

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¹ [PEMM Act review- 01/25 AFMA submission](#)