

## **Corporations Legislation Amendment (Derivative Transactions) Bill 2012**

*Introduced into the House of Representatives on 12 September 2012*

*Portfolio: Treasury*

*Response received: 3 October 2012*

### **Committee view**

1.2 The committee thanks the Minister for Financial Services and Superannuation for his detailed and prompt response to the committee's request for clarification on the bill's engagement with the right against self-incrimination.

1.3 Having considered the response in conjunction with the statement of compatibility, the committee is satisfied that the bill does not appear to raise any concerns with regard to the right against self-incrimination in article 14(3)(g) of the International Covenant on Civil and Political Rights (ICCPR).

1.4 The committee also notes that article 14(3)(g) of ICCPR is relevant to situations where the compelled information is subsequently used in criminal proceedings against the person or is used to gather other evidence against the person. The requirement to provide information on pain of a criminal penalty does not of itself infringe the right against self-incrimination in article 14(3)(g) of ICCPR.

### **Purpose of the bill**

1.5 This bill amends various related Acts to provide a legislative framework to implement Australia's G-20 commitments in relation to over-the-counter (OTC) derivatives reforms to improve transparency and risk management in the OTC derivatives market. In particular, the bill:

- introduces new restrictions on the trading of over-the-counter derivatives (OTC derivatives);
- allows the Minister for Financial Services to prescribe classes of derivatives in relation to certain mandatory obligations. Subject to a class of derivatives being prescribed for one or more mandatory obligations (trade reporting, central clearing or on platform execution), the Australian Securities and Investments Commission (ASIC) may make related derivatives transaction rules, with the Minister's consent; and
- introduces a licensing regime for trade repositories, a new type of financial market infrastructure.

1.6 The Minister's response can be found in Appendix 1.