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Mr John Hawkins
Committee Secretary, Senate Standing Committee on Economics
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Dear Mr Hawkins,

Carbon Pollution Reduction Scheme Bill 2009

The Australian Bankers' Association (ABA) welcomes the opportunity to provide comments to the Senate Standing Committee on Economics' inquiry into the *Carbon Pollution Reduction Scheme Bill 2009*.

The ABA has made a number of submissions to the Department of Climate Change on the design parameters of the carbon pollution reduction scheme (CPRS) and the technical and practical issues associated with the carbon market, which go into significantly more detail and cover more issues than this submission. We would be pleased to provide a copy of our submissions to the Committee upon request.

1. Opening remarks

1.1 ABA's views on climate change policy

The ABA supports the Federal Government's three pillar climate change strategy:

- Reducing Australia's greenhouse gas emissions (GHGs);
- Adapting to climate change that cannot be avoided; and
- Helping shape a global solution.

Climate change is a global problem that requires a global solution. We believe it is important to encourage the development of a global carbon market, initially through the introduction of the CPRS and a carbon market in Australia. The CPRS and carbon market will be fundamental to changing the behaviour of governments, businesses and the community – which is critical to shifting the high-emissions global economy to a lower emissions global economy.

The ABA also supports the need to implement effective policy frameworks to underpin and promote a cost-effective reduction in GHGs. We believe that introducing a CPRS administered and regulated by the Federal Government will be an important part of delivering the Federal Government's climate change strategy.

1.2 ABA's views on the CPRS

The ABA believes that the CPRS should provide a transactional space that allows price discovery to occur due to the exchange of units for value. Trading rules and operational arrangements for a carbon market will be required to ensure the exchange of emissions units takes place in a manner which is economically efficient.

It is the ABA's view that the CPRS should:

- Be a policy enabler to ensure that Australia meets its international legal obligations under the Kyoto Protocol.
- Be established around a clearly articulated objective to mitigate the adverse effects of climate change by limiting and reducing the release of GHGs into the atmosphere through a market-based mechanism which places a price on carbon.
- Be developed around a flexible, yet consistent framework, minimising market and policy changes over time, reducing regulatory uncertainty, managing transaction costs, minimising administrative complexities, and thereby encouraging confidence by participants.
- Be bound by uniform rules and be able to facilitate efficient and simple participation. Market efficiency must be supported by solid financial market conventions, trading and operating rules and regulatory and governance arrangements. Unnecessary regulation will adversely impact the efficiency and cost-effectiveness of emissions reductions.
- Improve investment and operational certainty while minimising artificial distortions on the economy and adverse impacts on the environment.

The ABA believes that the CPRS should be part of a comprehensive and multifaceted portfolio of policy responses to address climate change and achieve sustainable reductions in GHGs, along with practical strategies that assist businesses, individuals and the community as a whole transition to a future carbon constrained economy. The CPRS and carbon market is unlikely to be sufficient to advance low carbon technologies and clean development initiatives. It is important to provide a market incentive to encourage deployment of renewable technologies and foster the development of expertise in low emissions technologies, renewable energy technologies and emissions reduction practices.

The ABA also believes that the CPRS and carbon market should be accompanied by practical strategies, including investment in and deployment of clean technologies (low to zero emissions technologies) and carbon capture and storage; development and commercialisation of renewable energy technologies and energy efficiency initiatives; implementation of a domestic offset regime and encouragement of voluntary actions; and development of complementary measures and adaptation responses. Market-based approaches are likely to be the most cost-effective and economically efficient way to achieve reductions in GHGs.

The ABA recognises that the CPRS will impact in different ways on different businesses, individuals and communities. We believe complementary measures should take into account the distributional impacts of structural adjustment and compensation strategies. This should be done in such a way as to limit artificial impacts on the efficient operation of the carbon market and the function of establishing a price of carbon. Complementary measures should target potential areas of market failure and address emissions reduction gaps that are not covered by the CPRS. In addition, compensation strategies should assist industries and businesses build capacities to transition to a lower emissions economy.

1.3 ABA's views on recent changes to the CPRS announced by the Federal Government

The ABA is pleased that the Federal Government remains committed to implementing the CPRS legislation this year. It will be important for the CPRS framework to be finalised this year so that businesses and households can properly prepare to take the necessary actions to contribute to meeting Australia's emissions reduction targets. However, we note that the Federal Government's decision to defer the commencement of the CPRS for a year, coupled with uncertainty as to whether the CPRS legislation will be passed by the Parliament this year, has caused uncertainty about the final form of the CPRS and the timing of carbon trading. With this in mind, we support the Federal Government's efforts to finalise a sensible CPRS framework this year.

The ABA understands the Federal Government's need to focus on the broad implications of the scheme across the economy and industry sectors. However, while the banking and finance sector is not a protagonist in the public debate on climate change policies, we believe the shift in policy settings for the CPRS recently announced by the Federal Government and contained in the CPRS Bill will have a substantial impact on the functioning of the carbon market and more broadly on banking and finance relationships, in particular the introduction of additional and uncertain price controls – the \$10 per tonne fixed price for the first year of the scheme and the possibility that the price cap could extend further than the five year transitional period. It is the ABA's view that compensation strategies and complementary measures should feature as part of the scheme, but should be implemented in a manner so that they do not interfere with the efficient operation of the carbon market. With this in mind, we do not support the recent changes that introduce a fixed price phase.

The ABA has strongly supported the implementation of the CPRS and the carbon market and has been working constructively with the Federal Government and the Department of Climate Change on the policy, legislative and regulatory settings for the CPRS and the carbon market. However, many of the specific design parameters relevant for the carbon market have not yet been determined. With this in mind, we are concerned that without careful consideration of the technical details, the cost-effectiveness and efficiency of the scheme and the market could be seriously compromised by interventions and over-regulation, which would stifle participants, unnecessarily increase transaction costs for all participants, unnecessarily introduce additional complexities and lead to unintended consequences for the scheme and other existing markets. Having said that, we are pleased that the Australian Climate Change Regulatory Authority (ACCRA) will be established shortly after Royal Assent of the Bills.

It is the ABA's view that further consideration and consultation of a number of design parameters and technical details of the CPRS and the carbon market is required, including:

- Complexities associated with the new rules to delay and phase the introduction of the scheme and implications for banking and the market;
- Other proposals, such as auction rules, deferred payment arrangements, and personal property rights, that could have ramifications for market efficiency and banking and finance relationships; and
- Administrative and compliance issues associated with implementing the scheme and market, such as the regulatory and financial impact of applying the FSR regime, AML/CTF regime and various taxation arrangements to emissions units.

1.4 Role of the banking and finance sector

Participation by the banking and finance sector will be critical to the successful design and implementation of various climate change policies. Banks and other financial institutions are well placed to develop and deliver the necessary infrastructure and products and assist businesses and households understand their exposures and take appropriate actions to shift to a lower emissions economy.

The banking and finance sector has an important role to play in a number of crucial areas, including:

- Facilitating the trade of carbon assets on the carbon market, including financing the creation and trade of carbon assets;
- Intermediating between private sector participant buyers and sellers and making secondary and forward markets;
- Advising private sector participants on commercial risks and opportunities, including carbon risk management techniques and reduction strategies;
- Investing and providing capital funding for the development of clean technologies, renewable energy technologies and energy efficiency initiatives;
- Lending to private sector participants and individuals; and
- Developing products, services and incentives to support other climate change policies and mitigation and adaptation strategies, including retail products and services.

1.5 CPRS and carbon market

The ABA makes a distinction between the CPRS and the carbon market. The CPRS should establish the scheme design parameters and supporting infrastructure as well as provide certainty in emissions reduction targets, trajectories, scheme caps, gateways and thresholds. A carbon market should deliver a credible price signal in a transactional space that enables the exchange of emissions units to entities that place the greatest economic value on them.

The ABA believes that market-based approaches, and specifically a 'cap and trade' scheme, is the most cost-effective and economically efficient way of achieving reductions in GHGs. Putting a price on carbon makes other policy responses achievable. Alternatively, imposing a carbon tax would not be as economically efficient as it would hinder economic growth and would not provide an incentive for industries to innovate and find cleaner ways of conducting their businesses.

Climate change has considerable economic, social, environmental and business risks. Continuing uncertainty is disrupting the efficiency of existing markets as well as creating difficulties with regards to financing terms and investment decisions. Australia needs leadership and early action to provide business, investment, operational and market certainty. It is important for Australia to take action now and minimise the impacts of uncertainty.

Climate change also presents considerable opportunities. Trading, product creation and ancillary services (including risk consulting, funds management, legal and accounting) should be developed as export services regionally and globally. The design parameters of the CPRS should keep in mind opportunities for technology advances and international linkages as well as innovation in the financial services industry. It is important for Australia to take action now and take advantage of the opportunity to position itself as a 'carbon hub' within the Asia-Pacific region.

The ABA recognises the challenge in introducing the CPRS during a period of difficult market conditions. However, further delays in implementing the CPRS will compromise the effectiveness of the scheme and market; create unnecessary uncertainty, regulatory complexities, structural inconsistencies, and administrative costs; result in market irregularities, pricing anomalies, and a sharper adjustment to meet established emissions reduction targets; threaten our ability to mitigate the effects and adapt to the impacts of climate change; and, ultimately disadvantage Australia.

The ABA supports the:

- Introduction of a 'cap and trade' scheme based on principles that define a solid framework and design an efficient market, including economic efficiency, flexibility, tradability, credibility, simplicity, integration and competition; and
- Scheme enabling Australia to meet emissions reduction targets in the most efficient and cost-effective way as well as provide transitional assistance for the most affected businesses and households.

The ABA believes that the CPRS and carbon market should form part of Australia's response to address the impacts of climate change and achieve sustainable reductions in GHGs in Australia and around the globe. It is vital for Australia to position itself to take advantage of the opportunities for innovation as well as contribute to the global solution to manage the risks and uncertainty of climate change. Taking early action, adopting a comprehensive policy response and building knowledge and capacity are the key principles in achieving a sustainable response to climate change that focuses on delivering both real economic outcomes and real environmental outcomes.

The ABA notes that the CPRS Bill does not include details of the Climate Change Action Fund. We support the implementation of the Climate Change Action Fund as a transitional measure designed to encourage individuals to change their behaviour. The Federal Government should set up clear investment and funding guidelines structured around the central criteria of the intent of the Fund, i.e. what it is trying to do and how¹. It is important that consumers and the community have the information they need to be able to identify the actions they need to take as well as the products, services and tools necessary to take those actions.

2. Specific comments

It is the ABA's view that the design parameters contained in the CPRS Bill and the technical details that are due to be contained in the regulations need to be considered in concert and as a package. The design parameters of the CPRS may have significant implications for the efficient operation of the market, and the technical details associated with the carbon market may have a substantial impact on the cost-effectiveness of the scheme. It is vital that a considered balance is struck so that measures and strategies designed to assist transition do not unduly impact the development of the carbon market.

¹ The ABA notes that the Fund could include projects that provide capital investment in clean technology, new, innovative low emissions practices, and energy efficiency projects; disseminate best practice and consumer information to businesses and individuals; and provide support for those industry sectors and companies not receiving other forms of financial assistance.

2.1 Scheme caps and gateways

The ABA believes that in determining scheme caps and gateways it is appropriate for the Minister to give consideration to factors, including Australia's national interests, progress towards comprehensive global action, the economic implications of the scheme cap and the price of carbon, voluntary action to reduce GHGs, levels of GHGs that are not directly or indirectly covered by the CPRS as well as other factors, including emerging climate change science and targets and scenarios for stabilisation of atmospheric GHGs. The design parameters which are critical to the credibility of the CPRS should recognise that economic efficiency and environmental integrity are both important outcomes of the CPRS.

The ABA believes that it is appropriate not to include the specific scheme caps and gateways in the CPRS Bill. It is a reality that the CPRS will need to be able to respond to reflect evolving climate change science and developing international negotiations and arrangements. Uncertainties of climate change should be dealt with appropriately by enabling flexibility to adapt. However, flexibility needs to be balanced with providing businesses, households and the market with certainty regarding the design parameters. We note that the CPRS Bill contains a requirement for the Minister to provide a written statement setting out the reasons for making recommendations via regulations about the scheme caps and gateways.

However, the ABA believes that the CPRS Bill must also:

- Require the Minister to set the scheme caps and gateways in a timely manner, giving consideration to key issues;
- Ensure the scheme caps and gateways are prescribed by regulations; and
- Make provision for a default cap setting mechanism in the event that there is no agreement or decision or a delay in identifying future scheme caps and gateways.

The ABA believes that the CPRS Bill should not include a power to amend the scheme caps and gateways once set. We believe the CPRS Bill should be able to accommodate changes reflecting emerging climate change science and international negotiations and arrangements, without compromising clarity with regards to the stabilisation of atmospheric GHGs. It is important that the CPRS Bill ensures independence, transparency and accountability of decision making.

2.2 Fixed price and price cap

2.2.1 Fixed price

The ABA has previously indicated that we do not support price controls. Price controls distort the efficient operation of the market. We believe that the Federal Government's decision to introduce a fixed price phase and the absence of a genuine price signal for carbon in the initial years of the scheme will have a number of direct impacts on the carbon market and broad effects across the Australian marketplace, including:

- *Market implications:* Price discovery is effectively redundant in the initial years of the scheme, and potentially longer. Market efficiency is non-existent. Market volatility and price shocks will likely be sharper as adjustments are made through the various price phases. A viable carbon market will be delayed and participation and liquidity will be adversely affected. The key motivating factors for market development and risk management capabilities are removed. Development of core market competencies and other financial products and services will be hindered. In addition, it is likely that existing efforts in the voluntary market and developments in vegetation sequestration as well as new offset opportunities will be undermined.

- *Finance implications:* Emergence of a price of carbon is restricted and therefore signals cannot reliably be factored into investment and lending decisions. Uncertainty of pricing will likely impact the availability of capital and make access to credit more complicated and costly. Certainty for businesses, investors and the community will be sacrificed.
- *Investment implications:* Market forces of supply and demand and signals necessary to underpin the scheme and other complementary measures will be adversely affected, having the potential to delay investment in clean technologies, renewable energy technologies, energy efficiency initiatives and other carbon productivity improvements. Certainty for investment will be undermined and the objective of shifting to a lower-emissions economy will be thwarted.
- *Employment implications:* Businesses that are already taking steps to address the risks and opportunities of the CPRS will now have to put these plans on hold. This will have implications for jobs related to the scheme, including within the banking and finance sector. In addition, banks report that many of their clients have already invested in resources to analyse the implications of carbon price exposures and implement plans to manage their exposures.
- *International implications:* Efforts to enhance the strength of Australia's position as a 'carbon hub' within the Asia-Pacific region will be stifled, and consequently more challenging to realise as other countries introduce emissions trading schemes. In addition, it is likely that existing trading opportunities for Kyoto units will be undermined.
- *Environmental implications:* Price controls and interventions distort the credibility of the scheme. Certainty about a reduction in GHGs as smoothly and efficiently as possible will be compromised.

2.2.2 Price cap

If the Federal Government continues to deem it necessary to impose a price cap for a transitional period, the price cap should be set in the CPRS Bill at a level which has a "very low probability of use", as foreshadowed by the Government in the CPRS Green Paper. We consider that the price cap contained in the CPRS Bill has been set at a conservative level, and therefore is not set at a level with a "very low probability of use".

The ABA believes that too low a price cap will substantially undermine the objective of emissions reductions – that is, adjustments through technology will be weakened, GHG abatement activities will be hindered, price signals will be stifled, market development will be distorted, and market forces of supply and demand will be adversely affected. Furthermore, too flat an escalation could result in a sharp adjustment at the end of the transitional period.

The ABA recognises that the global financial crisis has created economic pressures across countries and economies. However, while a fixed price phase, coupled with the price cap phase, will provide business certainty in the initial years of the scheme by establishing a maximum cost of compliance, it will undermine market certainty and transfer risks to the Government. Inevitably, price interventions will create artificial market distortions and lead to greater and unnecessary administrative burden and compliance costs.

Therefore, the ABA believes that:

- The fixed price phase should be removed. Further consideration should be given to the implications of a fixed price on the efficiency and cost-effectiveness of the scheme and market going forward as well as to other measures and strategies to assist with transition as an alternative.

- The price cap mechanism should be adjusted. Further consideration should be given to the quantum of the price cap, the rate of escalation, the application for units and the implications of price separation. Furthermore, the suggestion that the price cap will be reviewed after five years, rather than removed after five years, introduces additional uncertainty and should be removed.
- A review mechanism during the initial five year period should be established to ascertain whether the price cap remains appropriate, having regard to parity of international prices and international linkages as well as readily observable behaviour and outcomes in the carbon market. This approach will ensure that the price cap is not unduly prohibitive in managing extreme price volatility. In addition, it will assist in minimising the likelihood of pricing irregularities at cessation of the price cap as well as adverse consequences for importing eligible international units during the period of the price cap.

2.3 International linkages

The ABA supports in principle enabling a liable entity to import non-Kyoto units issued in accordance with international agreements other than the Kyoto Protocol. Allowing non-Kyoto units to be prescribed via regulations as eligible international units means that other types of emissions units can be added without amending the CPRS legislation. The ability to recognise other international units will provide flexibility to respond to emerging international agreements and bilateral agreements, where an independent review finds that establishing a bilateral linkage will not significantly impact the price for AEU's and will enhance domestic and regional emissions reductions.

However, the ABA believes that further consideration and clarification is required, especially with regards to international linkages and the implications for innovation in domestic GHG abatement activities, triggers and criteria for the basis of a decision not to recognise an international unit for compliance purposes or a decision to disallow the future transfer of certain types of international units, provisions allowing future exporting of AEU's, and international linkages and the implications of taxation arrangements and regulatory structures.

The ABA notes the ability to import eligible international units is critical to the operation of the scheme. The future ability to export AEU's will be critical to establishing the appropriate foundations to make a smooth transition to a fungible global market. Greater clarity and accountability of decision making will be essential to the efficient operation of the market.

2.4 Auction rules

The ABA notes that the CPRS Bill provides for a progressive shift towards 100% auctioning. We believe that auctioning should be consistent with norms of economic markets (i.e. take place via issuance of parcels of units at monthly intervals and via ascending clock auctions). Advance auctioning of a percentage of future year's vintage will create supply to enable any "5% shortfall" to be satisfied. Auctioning of an additional three vintages will provide an efficient price discovery mechanism, therefore, assisting liquidity in the forward market. We do not support the withholding of a portion of current year vintage for an auction after the end of the eligible compliance period. We also do not support double-sided auctions.

The ABA notes that the Federal Government has stated that further consultation is required on auction rules. We believe that further consideration and clarification is required, especially with regards to the type of auction, timing of auctions, participants in auctions, parcel size at auctions, vintage units to be auctioned, requirements for participants to lodge a deposit prior to auction, deposits/guarantees provided by participants to meet obligations and timing of payments.

2.5 Deferred payment arrangements

The ABA strongly opposes any proposal for deferred payments (allowing the exchange of units and payment at an agreed future date to limit cash flow impacts). Allowing liable entities to delay payment for emissions units acquired at auction would severely undermine the development of secondary markets for future vintages and reduce liquidity in the market. In addition, it would create difficulties regarding distinctions between emissions units and derivatives, which would likely have regulatory implications; complexities regarding property rights, which would limit the ability for taking security over emissions units; and pricing anomalies (e.g. tiered pricing in auctions, pricing irregularities in the forward market, implications for credit, implications for accounting, etc). We believe that working capital and cash flow concerns are better addressed using other banking products and services.

The ABA has made a submission to the Department of Climate Change on its discussion paper *Deferred payment arrangements for the Carbon Pollution Reduction Scheme auction*. We would be pleased to provide a copy of our submission to the Committee upon request.

2.6 Personal property rights

The ABA supports the CPRS providing for the establishment of personal property rights. Carbon assets with distinguishable and tradable rights will be a key to establishing a secondary market and promoting the forward market. Carbon assets will improve the efficient functioning of the CPRS, by reducing transaction costs, facilitating price discovery and transferring risk, and minimising counterparty and settlement default. We note that AEU's will be treated as personal property. We also note that Kyoto units and non-Kyoto units held in the national registry will be treated as personal property in limited circumstances.

The ABA believes that legal ownership should only be transferred by entry into the national registry. The creation of equitable interests in emissions units should be permitted. Taking security over emissions units should be permitted. Carbon assets with distinguishable and tradable rights will better assist financial institutions to extend credit against the value of the underlying asset, and include its value in cash flow and balance sheet projections. We note that there is no explicit provision that an entry in the national registry is sufficient evidence of legal title.

The ABA notes that the Federal Government has stated that further consultation is required on property rights. We believe that further consideration and clarification is required, especially with regards to the implications of deferred payments for auctions and the ability to take security over emissions units, carry-over restrictions for eligible international units, equitable application amongst unit holders, provisions allowing future exporting of AEU's, and the operation of taxation provisions in light of potential ambiguities.

2.7 Assistance program

The ABA recognises that assistance is necessary to facilitate a smooth transition to a lower emissions economy. However, the level of free allocation of units will have implications for the efficiency of the market in terms of reduced liquidity. Having said that, the imposition of price controls as a form of assistance will have a substantial impact on the market. It is the ABA's view that assistance should not be implemented in a manner so that it has unintended consequences for the carbon market or unduly undermines the credibility of the CPRS.

2.8 Transfer of liability

While the ABA recognises that some changes have been made following the exposure draft, in particular aligning the 'operational control' test in the CPRS Bill and the *National Greenhouse and Energy Reporting Act 2007*, generally the ability to transfer liability for a particular facility in certain circumstances and the interaction between the CPRS Bill and NGER Act will need to be further clarified.

The ABA believes that a liable entity should be defined as the entity with operational control over the facility and responsible for GHGs emitted directly from the facility. However, in certain circumstances it may be difficult to identify 'operational control' of a covered facility, and in certain circumstances it may be appropriate for an entity with 'financial control' to transfer liability to another entity. It is important that there is a liable entity or entities for the emissions obligations of a covered facility.

The ABA notes that the Federal Government has stated that further consultation is required on use of the liability transfer certificate mechanism. We believe that further consideration and clarification is required, especially with regards to emissions obligations and reporting obligations, multiple partner arrangements, incorporated entities versus non-incorporated entities, guarantee arrangements and implications for project financing, 'passive' financing arrangements by banks and other lenders, credit defaults and companies in administration/receivership, investments by fund managers, and the operation of anti-avoidance provisions in light of potential ambiguities.

2.9 Regulatory framework

2.9.1 Financial products

While the ABA supports ensuring market integrity in relation to transactions in emissions units and ensuring market manipulation and misconduct is prohibited, we do not believe that this is best achieved by regulating emissions units as 'financial products'. We have previously outlined our concerns with treating emissions units as financial products, in particular the unnecessary compliance costs that could be imposed on liable entities and other scheme participants.

The ABA believes that over-regulation of the carbon market will stifle participants, unnecessarily increase transaction costs and lead to unintended consequences for the CPRS and other domestic markets. In addition, we note that no other jurisdiction has taken the decision to regulate emissions units as financial products – this could present problems in terms of international linkages, competitiveness, international trade and establishing Australia as a regional 'carbon hub'².

The ABA believes that the Federal Government's decision to treat emissions units as financial products will require a thorough review of the specific obligations contained in Chapter 7 of the *Corporations Act 2001* to ensure that regulation does not impose unnecessary administrative burdens or compliance costs as well as does not act as a barrier to entry. We note that the banking and finance sector is currently consulting with the Department of Climate Change and Treasury. This approach will require a number of legal clarifications and relief instruments to ensure appropriate adjustments remove the many unnecessary obligations that come with treating emissions units as financial products. It is essential that the scheme effectively interacts with the financial services laws, yet does not have broader implications that will adversely impact the efficiency and cost-effectiveness of emissions reductions.

² The ABA notes that New Zealand and the United Kingdom do not regulate units as financial products.

The ABA has made a submission to the Department of Climate Change on its issues paper *Eligible emissions units as financial products*. We would be pleased to provide a copy of our submission to the Committee upon request.

2.9.2 Taxation

While the ABA recognises that some changes have been made following the exposure draft, generally we consider that the tax rules are still too complex and overly burdensome. The tax rules should seek to minimise complexity and compliance costs and be based on simplicity, efficiency and equity – that is, effective tax rules will be essential to the success of the scheme.

The ABA believes that the Federal Government should reconsider the tax treatment of CPRS transactions, including direct and indirect impacts as well as the uncertainty regarding the application of State taxes. We consider that the income tax rules will need to be further clarified, including in relation to deductions for expenses for the acquisition and disposal of units, allocation and buy-back of units issued free of charge, and anomalies that may occur due to timing differences (expenditure for selling or acquitting a unit). Furthermore, emissions units should be treated as GST free³.

2.9.3 Anti-money laundering

While the ABA supports efforts to address the risks of money laundering and terrorism, we consider that the proposal to capture the acquisition and disposal of emissions units by agents as a 'designed service' under the *Anti-Money Laundering and Counter Terrorism Financing Act 2006* needs to be given further considered. This amendment may have far reaching implications for liable entities and other scheme participants and could substantially increase the regulatory burden and compliance costs associated with the scheme for liable entities and other scheme participants.

3. Concluding remarks

The ABA believes that significant and immediate action to reduce GHGs and adjust to the effects of climate change will go to minimising the impact of climate change on Australia's economy, society and environment. The CPRS and carbon market will impact on how decisions are made throughout Australia's economy and therefore efforts towards abatement of GHGs.

The ABA believes that governments, businesses and the community must take action to mitigate, abate, prepare and adapt to the consequences of climate and weather-related changes due to global warming. It is in the long-term interests of the Australian economy, society and environment to take early action so that Australia can make a smooth transition to a lower carbon economy as well as address the vulnerabilities and take advantage of the opportunities presented by climate change.

While the ABA believes that assistance programs for businesses and households should be provided as part of the scheme, we strongly believe that assistance should not be implemented in a manner which creates additional complexities, costs and uncertainties for banking and finance relationships or in such a way that it directly and adversely impacts the efficient operation of the market.

³ The ABA notes the recent announcement by the Minister for Climate Change and Water that Australia and New Zealand have agreed to explore harmonising the design of the Australian CPRS and the New Zealand ETS. New Zealand has a 'zero rating', meaning there is a neutral impact from GST. Australia's proposal to apply the GST rules to eligible emissions units (AEUs, Kyoto units and non-Kyoto units) will create pricing discrepancies across international schemes and markets, taxation and infrastructure complexities (spot and forward trading, domestic and foreign traders, emissions units and other traded instruments), and be a barrier to harmonisation.

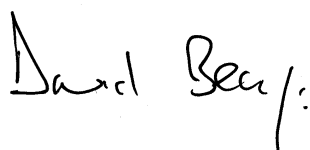
The ABA supports:

- A market-based solution as likely to be the most effective and economically efficient way for Australia to undertake the structural adjustment required to shift to a lower-emissions economy and meet our international legal obligations under the Kyoto Protocol. Effective policy frameworks should underpin and promote a cost-effective reduction in greenhouse gas emissions.
- A 'cap and trade' scheme based on principles that define a solid framework and design an efficient market. A carbon market should enable the exchange of emissions units to take place in a manner which is economically efficient. Price controls and interventions obstruct the efficient operation of the market and are a disincentive for the development of markets, and therefore should be avoided.
- A scheme as part of a comprehensive policy response to addressing climate change and achieving sustainable reductions in GHGs. Practical strategies and transitional assistance for the most affected businesses and households should be an integral part of the scheme. The policy, legislative and regulatory settings for the scheme and the market must be considered in concert and as a package.

The ABA looks forward to continuing the constructive dialogue with the Federal Government to identify appropriate regulatory solutions and resolve the outstanding practical and technical issues associated with the introduction of the CPRS and a carbon market in Australia, especially on design parameters as they impact on the products and services provided by the banking and finance sector and the exchange of emissions units with low transaction costs through an efficient functioning carbon market.

If you have any queries regarding the issues raised in our submission, please contact me or Diane Tate, Director, Financial Services, Corporations, Community on (02) 8298 0410: dtate@bankers.asn.au.

Yours sincerely



David Bell