



26 June 2020

Alex Orgaz-Barnier
Senior Manager
Market Infrastructure
Australian Securities and Investments Commission
Level 5 100 Market Street
Sydney NSW 2001

By email: alex.orgaz-barnier@asic.gov.au

Dear Mr Orgaz-Barnier

**Exemptions in ASIC Corporations (Derivative Transaction Reporting Exemption)
Instrument 2015/844 expiring on 30 September 2020**

The Australian Financial Markets Association (AFMA) thanks ASIC for the opportunity to consider with members ASIC's current intentions regarding the OTC derivative transaction reporting exemptions due to expire on 30 September 2020 set out in your letter of 12 May 2020. Our comments are as follows.

1 Exemption 1 (Exchange-traded derivatives)

AFMA supports the proposal to update and simplify the ASIC Regulated Foreign Markets Determination and the related exemption, to fix for duplications of named financial markets already with a class definition and for inaccuracies in their names.

Regarding the introduction of further classes of financial markets definitions in the Determination, and the assessing markets named in the exemption for inclusion in the Determination, AFMA is ready to assist in consultations on specific proposals for changes to the Determination and the exemption.

2 Exemption 3 (Name Information)

As ASIC has not yet determined whether to propose to require name information in its implementation of the IOSCO Critical Data Elements, we agree with the proposal to extend to 30 September 2022 the exemption from reporting most entity Name fields if the Reporting Entity reports the corresponding entity ID field as LEI, AVID or BIC.

3 Exemption 4 (Privacy – Consent for historical counterparties)

AFMA understands the logic of the proposal to allow the exemption relating to consent for historical counterparties to expire on 30 September 2020, on the basis that Reporting Entities do not appear to be relying on the exemption.

4 Exemption 5 (Privacy – Foreign privacy restrictions)

AFMA considers there is a continuing need for the exemption and that it should be extended beyond 30 September 2020 for a further year on the basis that the exemption is no longer required.

Feedback from our members indicates that entities continue to rely on this exemption for the masking of Chinese entities to comply with foreign privacy restrictions. Accordingly, we seek the extension of this relief, because not extending the relief will place Reporting Entities in a position of conflict of laws between jurisdictions with no control in respect of the situation.

5 Exemption 9 (FX Securities Conversion Transactions)

The FX Securities Conversion Transactions exemption provides necessary relief from reporting FX forwards with a tenor of less than or equal to 7 days that are entered into to facilitate settlement of a foreign currency-denominated security trade. In line with our previous submissions on this matter, we recommend making a permanent change to the rules to establish alignment with other major jurisdictions.

In the interim, AFMA agrees with the decision to extend the exemption to 30 September 2022.

Please contact Natalie Thompson either on 02 9776 7979 or by email at nthompson@afma.com.au if further clarification or elaboration is desired.

Yours sincerely



David Love
General Counsel & International Adviser