21 March 2016

Division Head
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600
clientmoney@treasury.gov.au

Dear Sir/Madam

Client Money Reforms

The International Swaps and Derivatives Association (**ISDA**)[1] is grateful for the opportunity to comment on the Client Money Reforms (**Reforms**) released by the Australian Government on 29 February 2016.

Since its inception, ISDA has pioneered efforts to identify and reduce the sources of risk in the derivatives and risk management business through documentation that is the recognized standard throughout the global market, legal opinions that facilitate enforceability of agreements and collateral arrangements, the development of sound risk management practices, and advancing the understanding and treatment of derivatives and risk management from public policy and regulatory capital perspectives.

We note that the following documents on the Reforms were released on 29 February 2016:

(a) Corporations Amendment (Client Money) Bill 2016 (**Bill**);
(b) Corporations Amendment (Client Money) Regulation 2016 (**Regulation**);
(c) Explanatory Memorandum on the Bill; and
(d) Explanatory Statement on the Bill and Regulation.

[1] **About ISDA**: Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 67 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org.

We also refer to the Resilience and Collateral Protection and Client Money Reforms package released by the Australian Government on 21 December 2015 as well as the ISDA submission on the same made on 5 February 2016 (**ISDA Submission**). We also note that the Financial System Legislation Amendment (Resilience and Collateral Protection) Bill was introduced into Parliament on 16 March 2016.

As noted in the ISDA Submission, while we agree that the issues dealt with throughout the reforms described above are closely interrelated, we believe, given our focus on the over-the-counter (**OTC**) derivatives markets, that other respondents, in particular, other international financial trade associations with a broader and less sector-specific focus and mission than ours, may be better placed to comment in detail on specific parts of the Reforms, for example, in relation to the enhanced protection of the client money of retail clients. Our members may also choose to make their own individual submissions on the Reforms.

ISDA notes that the reforms as described above are a significant and crucial step made by Australia in strengthening its financial markets and ensuring legal certainty for the operation of key market infrastructure. With respect to the Reforms, ISDA appreciates the Commonwealth Treasury's (**Treasury**) efforts in this area and in particular, ISDA broadly supports the considered approach taken by Treasury in developing the Reforms to maintain the efficient operation of wholesale derivative markets. We note that under the amendments proposed in these Reforms, it is intended that wholesale clients will still be able to meet the margin and collateral requirements of their counterparties and therefore continue to access global derivative markets. We also understand that the amendments will enable wholesale clients to contract out of the client money regime if they so desire and that this is intended to facilitate the ongoing efficiency of the wholesale derivatives market and ensure that the client money regime does not impose unnecessary limitations on institutional investors.

ISDA urges that the Australian Government continue to consider these reforms as described above and any other proposed reforms in a holistic manner, thereby ensuring consistency in the application of these legislative amendments. ISDA very much appreciates the opportunity to respond to these reforms and we would be happy to make ourselves available for a discussion on these issues. Please do not hesitate to contact Keith Noyes, Regional Director, Asia Pacific (knoyes@isda.org, +852 2200 5900) and Erryan Abdul Samad, Assistant General Counsel (eabdulsamad@isda.org, +65 6653 4170) if we may be of further assistance.

ISDA®

Yours sincerely,

For the **International Swaps and Derivatives Association, Inc.**

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