



23 February 2024

By email: CICS@Treasury.gov.au

Lauren Hogan
Capital Markets Unit
Financial System Division
GPO Box 3
Melbourne VIC 3001

Dear Ms Hogan

CORPORATIONS AND COMPETITION INSTRUMENT 2024 – DEFINITION OF CASH EQUITY

The Stockbrokers and Investment Advisers Association (SIAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and Advisory firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

Our members include Clearing and Settlement Participants impacted by legislation aimed at facilitating competitive outcomes in the provision of clearing and settlement services.

The history of the stockbroking profession in Australia can be found [here](#).

SIAA welcomes the opportunity to provide feedback on the proposed definition of ‘cash equity’ contained in the *Corporations and Competition (CS Services) Instrument 2024* (the Instrument) and whether there is competition in any of the clearing and settlement services that will be covered by the proposed ‘cash equity’ definition.

Definition of ‘cash equity’

We note that SIAA provided feedback to Treasury at our joint meeting on 1 February 2024. Our understanding is that the Instrument should only capture financial products that are cleared and settled by CHES and that the arbitration power is only relevant in markets where a clearing and settlement provider holds significant market power.

It is important that there is no confusion as to what financial products are included in the definition of ‘cash equity’. There was confusion in the industry when the DDO legislation was implemented about what financial products were covered by the legislation and what were excluded. This resulted in industry incurring additional compliance and legal costs to ready itself for the introduction of the DDO regime. Therefore, to avoid a repeat of any confusion, the Instrument should be drafted in a

way that can be understood as easily as possible and clearly specify what financial products are included in the definition of 'cash equity' and what are not.

We raise the following issues about the current definition that we consider requires clarification in the Instrument:

- Is the definition intended to cover unlisted Managed Investment Schemes?
- Is the definition intended to cover other OTC products such as OTC options and warrants?

Clarification of these issues is particularly important because the current definition does not accord with what the industry generally considers to be a 'cash equity'. For example, the common usage of the term covers only listed equities. It does not include Exchange Traded Products (including Exchange Traded Funds) nor Managed Investment Schemes more generally. Nor does it cover Exchange Traded Options – these are generally referred to as Derivative Market Products (as opposed to Cash Market products). This means that any definition of 'cash equity' must be easy to understand and apply.

Conclusion

If you require additional information or wish to discuss this matter in greater detail, please do not hesitate to contact SIAA's policy manager, Michelle Huckel, whose contact details are in the covering email.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JF' with a stylized flourish and a small 'x' at the end.

Judith Fox
Chief Executive Officer