



## Australian Government

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### Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 17955  
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Oliver Harvey  
Senior Executive Leader  
Financial Market Infrastructure  
Australian Securities and Investments Commission

Dear Mr Harvey

#### **Final Regulation Impact Statement – ASIC Derivative Transaction Rules (Reporting) 2013**

Thank you for forwarding the Regulation Impact Statement (RIS) for the above proposal for final assessment on 16 December 2014. I note that you have formally certified the RIS as required by the best practice regulation requirements.

The Office of Best Practice Regulation (OBPR) assesses RISs based on: whether the agency is compliant with the requirements outlined in the Australian Government Guide to Regulation; and whether the quality of the RIS itself, and the process that was followed during its development, constitutes best practice. The latter is assessed having regard to the significance of the regulation and the scale and scope of its impacts.

I note the agency has complied with the RIS guidelines, having twice provided a certified RIS (addressing all seven elements) to the OBPR for the two-pass assessment before the decision-maker considers the RIS.

I note our comments of date on the initial draft have been appropriately addressed, as you confirmed in your letter certifying the final version of the RIS, that the RIS does not contain obvious errors, and has a degree of detail and depth of analysis that is commensurate with the magnitude of the problem and the size of the potential impact of the proposal. The Office of Best Practice Regulation (OBPR) considers that the proposals canvassed in the RIS have a measurable impact on defined sectors of the economy. The OBPR does not consider that the proposal is likely to have competition impacts.

I note that regulatory burden for each viable option has been estimated and agreed with the OBPR.

In broad terms, the RIS canvasses a range of options aimed at reducing the regulatory burden associated with the current over-the-counter (OTC) derivatives reporting regime.

The RIS firstly canvasses the background to the reforms of the OTC derivatives market, including the build-up of risks that contributed to the global financial crisis. The RIS then

outlines the specific risks that were intended to be addressed through OTC derivatives reporting regime, and how this regime contributes to effective oversight by Australian regulators.

The RIS then proposes specific amendments to the reporting regime aimed at reducing unintended or disproportionate compliance costs resulting from the regime, as well as reducing gaps in trade reporting data, while still achieving the overall objectives of transparency and risk management.

The RIS provides evidence of ongoing and effective consultation with industry on the impacts of the original reforms and the changes canvassed in the current RIS.

On these bases, the OBPR has assessed that the final RIS constitutes best practice.

For legislation which is tabled in the Parliament, a copy of the RIS must be included in the explanatory memorandum (for primary legislation) or the explanatory statement (for legislative instruments). Please ensure that your officers provide the OBPR with a copy of (or link to) the explanatory memorandum or explanatory statement when these are made public.

Additionally, the OBPR maintains a RIS website and the Government requires that RISs be posted within 5 business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*. We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate. Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is 17955. If you have any further queries, please do not hesitate to contact me.

Yours sincerely



Jason McNamara  
Executive Director  
Office of Best Practice Regulation  
17 December 2014