



2 May 2019

Manager
Banking and Capital Markets Unit
Financial System Division
Markets Group
Treasury
Langton Cres
Parkes ACT 2600

By email: NGFreform@treasury.gov.au

Dear Ms Luu

**Consultation on Corporations Amendment
(National Guarantee Fund Payments) Regulations 2019**

The Australian Financial Markets Association (AFMA) is responding to the consultation on the draft Corporations Amendment (National Guarantee Fund Payments) Regulations 2019 (Regulations).

The National Guarantee Fund (NGF) is a compensation fund maintained by the Securities Exchanges Guarantee Corporation Limited (SEGC) in accordance with the Corporations Act and related Regulations. The SEGC's purpose is to meet a range of claims that may arise out of conduct in relation to securities by participants on the market in relation to risks solely associated with the conduct of brokers, not any risk arising from the market licensee's conduct or that of any of its employees in conducting that market. The basis of the fund was a proportion of the fidelity funds previously held by the capital city exchanges prior to their consolidation into the Australian Securities Exchange in 1987. To this has been added interest from broker accounts and investment income. Payments have been made from the NGF for claims, and administration and securities industry development purposes at the direction of the Government which depleted the fund.

AFMA considers the NGF to be an important part of Australia's financial market infrastructure which has met the test of time. It needs to be maintained at a sustainable level based on the advice of actuarial assessments of the likely types of claims that may need to be met. Without capping of claims such assessments cannot provide a definitive

response on the minimum required for the fund making it difficult for the SEGC to make a precise decision with absolute certainty.

Certainty is important to market participants and claimants and these Regulations will provide certainty by replacing the existing cap with three new caps on payments out of the NGF which cover all of the heads of claim. The three caps are set at reasonable and ample levels. The first caps the amount that a claimant may receive for claims relating to the same event and the same participant at \$1 million. The second caps the cash component of any such claim at \$250,000. Third, if the participant becomes insolvent, the NGF Regulations cap the total amount paid out of the NGF in relation to that participant at 15 per cent of the minimum amount in the NGF as at the end of the day on which the participant became insolvent.

AFMA commends the consultation and careful policy analysis by the Treasury that led to the preparation of the Regulations.

AFMA supports the making of the Regulations on the basis that they are in the interest of the market and consistent with objectives of the relevant part of the Corporations Act.

Thank you for your attention to this comment. Please contact David Love either on 02 9776 7995 or by email dlove@afma.com.au if further clarification or elaboration is desired.

Yours sincerely

A handwritten signature in blue ink that reads "David Love". The signature is written in a cursive, flowing style.

David Love
General Counsel & International Adviser