



MEDIA RELEASE

AFMA Calls Time on Interest Deductibility Cap for Foreign Banks

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The Australian Financial Markets Association (AFMA) has today called on the Government to take the opportunity arising from the end of LIBOR to remove an existing flaw in the tax framework applying to foreign banks and restore competitive neutrality.

Currently, foreign bank branches are capped on the deductibility of interest on internal funding to the relevant LIBOR, referred to as the “LIBOR Cap.” In a submission responding to the Exposure Draft of the *Treasury Laws Amendment Bill 2021 (Miscellaneous and Technical Amendments)*, AFMA expressed concern with the replacement of the existing LIBOR Cap with a capping mechanism to be determined solely by the ATO.

“The LIBOR Cap is a relic of the past and has been operating inconsistently with its policy intent for many years,” said AFMA Policy Director, Rob Colquhoun. “The amendments proposed in the Bill are neither technical nor miscellaneous but go to a substantial matter of policy. The ATO is not equipped to determine appropriate benchmark rates for each currency and handing this role to the ATO creates a significant conflict of interest. It is only the Government that can balance competing objectives of banking competition against revenue collection. The amendments proposed in the Bill will exacerbate the competitive distortions between banks and should not proceed.”

“The looming end of LIBOR is an ideal opportunity to fix the currently non-level playing field between foreign bank branches and their competitors. Reliance should be appropriately placed on Australia’s robust transfer pricing framework to ensure interest deductions that are claimed are at arm’s length.”

In recommending this policy approach, AFMA is aligned with the Board of Taxation and the 2009 Johnson Report into Australia as a Financial Centre, both of which called for the removal of the LIBOR Cap.

Notes for Editors:

AFMA promotes efficiency, integrity and professionalism in Australia’s financial markets. These markets are an integral feature of the economy and perform the vital function of facilitating the efficient use of capital and management of risk.

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