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**Response to discussion paper:  
Counterparty Credit Risk for ADIs**

The Australian Financial Markets Association (AFMA) welcomes the opportunity to make this submission commenting on aspects of the Prudential Standards referenced in the discussion paper, and particularly the reporting forms which accompany the new Prudential Standard APS 180 Capital Adequacy: *Counterparty Credit Risk* (APS 180).

AFMA's comments express the views and concerns of our foreign ADI membership, and are specific to reporting obligations as proposed under the new reporting form ARF 226 *Margining and risk mitigation for non-centrally cleared derivatives* (ARF 226). AFMA notes that APRA has previously advised all ADIs that the new requirements for counterparty credit risk would not take effect until 1 January 2019 at the earliest.

***Proposed reporting form ARF 226 Margining and risk mitigation for non-centrally cleared derivatives***

***Potential for exemptions from reporting***

Prudential Standard CPS 226 *Margining and risk mitigation for non-centrally cleared derivatives* provides discretion for APRA to approve substituted compliance in relation to a foreign margining regime where the regime is comparable in its outcomes with the BCBS-IOSCO framework and the requirements in this Prudential Standard. The Standard further provides that, 'where APRA recognises substituted compliance in relation to a foreign margining regime, an APRA covered entity will be deemed to be compliant with the margin requirements in this Prudential Standard to the extent that it complies with the relevant foreign margining regime. APRA may limit the scope of or impose conditions on recognised substituted compliance.'

On this basis, so-approved foreign branches may rely on the home office reporting protocol and be exempt from domestic reporting obligations. While it is recognised that not all foreign branches will have these arrangements in place, APRA may wish to consider

exempting foreign branches from reporting in circumstances where it has recognised substituted compliance.

### ***Scope of margining group transactions***

As currently drafted, the ARF 226 Instructions may be considered to be ambiguous in that, while foreign branch reporting is limited to transactions booked in the accounts of the Australian branch, the exception to this rule is that the branch must report the aggregate month-end average notional principal amount of the non-centrally cleared derivative transactions *of the margining group*. For many foreign bank branches the literal interpretation of this could be that head office group level reporting is necessary, notwithstanding that Prudential Standard ARS 180 establishes that only the domestic books of licensed ADI are in the scope of reporting. As currently presented, the instructions state:

*'A **branch of a foreign bank** is only required to complete ARF 226 in respect of transactions booked in accounts of the Australian branch of that entity (with the exception of item 1 column 1, which must be completed in respect of the margining group).'*

AFMA is of the opinion that it is not necessary to provide the exception to the rule, i.e. *'(with the exception of item 1 column 1, which must be completed in respect of the margining group)'*. The rationale for this is that the preceding language establishes that the foreign branch must regardless report the aggregate month-end average notional principal amount of the non-centrally cleared derivative transactions on the domestic book of the foreign branch. Accordingly, AFMA recommends that the instructions accompanying ARF 226 be amended to remove uncertainty with regard to the scope of *margining group* transactions.

### **Recommendations**

It is recommended that APRA consider removing the exception on the basis that it's preceding language establishes that the foreign branch must regardless report the aggregate month-end average notional principal amount of the non-centrally cleared derivative transactions on the domestic book of the foreign branch.

APRA may also wish to consider exempting foreign branches from reporting in circumstances where it has recognised substituted compliance.

AFMA foreign ADI members welcome the opportunity to provide further feedback on any of the above issues.

Yours sincerely



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