



Committee Secretariat
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

19 December 2024

By email: economics.sen@aph.gov.au

Dear Committee Secretariat,

SCAMS PREVENTION FRAMEWORK BILL [PROVISIONS] 2024

The Mortgage and Finance Association of Australia (**MFAA**) appreciates the invitation to comment on the Scams Prevention Framework Bill [Provisions] 2024 (the **Bill**).

The MFAA is Australia's peak industry body for the mortgage and finance broking industry with over 15,500 members which includes mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other participants to the mortgage and finance industry. Brokers play a critical role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Over time, consumers have increasingly sought the services of a mortgage and finance broker with the latest MFAA quarterly market share data showing mortgage brokers are facilitating 74.6% of all new residential home loans¹ and approximately four out of ten small business loans² in Australia.

As an industry association, the MFAA's role is to provide leadership and to represent its members' views. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.

OUR SUBMISSION

The MFAA welcomes the Federal Government's efforts to implement a legislative framework to prevent and respond to scams impacting the Australian community.

The proposed Bill sets out a framework (the Scam Prevention Framework or SPF) which is intended to establish a whole-of-scam ecosystem approach to scam prevention and response. It encourages collaboration across sectors including banks, telecommunication providers, and digital platform services (initially social media, paid search engine advertising and direct messaging services) to protect consumers.

¹ MFAA media release, [Mortgage broker market share reaches new record highs](#), 3 December 2024.

² Productivity Commission research paper [Small business access to finance: The evolving lending market](#) pg 44.

We acknowledge the Minister for Financial Services' ability to designate further new sectors, however as a sector of predominantly small businesses,³ we do not expect for the mortgage and finance broking sector to be a designated sector covered by the SPF.

In saying this, as nearly 75% of all home loans are facilitated through brokers, we do see mortgage and finance brokers being a critical part in supporting the Federal Government's efforts to continue to prevent and respond to scams. Brokers can often be the first line of defence against scammers in sensitive lending transactions and can play a vital role in educating their clients about the common scams to watch out for and the steps to remain safe.

The MFAA is committed to supporting its members to support their clients to stay safe from scammers, providing our members with resources including making available the CyberWardens program which is aimed at educating small business brokers to improve their online security.⁴

With this in mind, we re-emphasise the key components of our submission⁵ to Treasury's consultation⁶ on the draft Bill being:

- The definition of a scam is fit for purpose – noting that the broadness of its definition would benefit from further guidance by Treasury to help both consumers understand their rights and businesses within designated sectors to comply more effectively.
- The principles-based framework provides the Federal Government with the flexibility to act quickly to designate other sectors of the economy should scam activity shift over time. In saying this, caution should be taken for obligations imposed on designated sectors to not be then transferred on non-designated sector participants which may not have the same capacity or capability as larger institutions (such as banks) to comply with code requirements.
- Mortgage and finance brokers are well placed in delivering consumer education on scam detection and prevention.

Definition

As noted in our original submission, we understand the definition of a 'scam' within the draft Bill is deliberately broad to capture the wide range of activities scammers engage in and their ability to adapt and to adopt evolving behaviours over time. As such, the MFAA reiterates its support for the definition of a scam as proposed, considering it sufficiently broad to capture the two most common types of scam-related activity observed by our broker members, being impersonation and payment redirection scams.

Since the Bill was referred to the Committee, the MFAA has had the benefit of reviewing a number of submissions to the Treasury consultation which includes proposals to further define in the rules what a scam is and what a scam is not. We support the Australian Banking Association's⁷ proposition to include a non-exhaustive list in the Rules of what is not considered to be scam activity including fraud where parties are known to each other, ponzi schemes and misleading and deceptive conduct. Such a list will support greater clarity to entities within designated sectors to comply with the SPF.

Principles based framework

The principles-based SPF provides the Federal Government with the flexibility to act quickly to designate other sectors of the economy should scam activity shift over time.

³ According to MFAA [Industry Intelligence Service 17th Edition](#), for the six month period 1 April 2023 to 30 September 2023, 80% of broker offices comprise of less than 10 brokers.

⁴ MFAA news [Don't let your personal devices be a back door into your business](#), 1 October 2024.

⁵ MFAA [response to Treasury consultation – Scams Prevention Framework – Exposure draft legislation](#), 4 October 2024.

⁶ Treasury consultation [Scams Prevention Framework - exposure draft legislation](#), 13 September 2024 to 4 October 2024.

⁷ Australian Banking Association submission to Treasury Consultation Scams Prevention Framework – Exposure Draft Legislation, 4 October 2024, Treasury reference c2024-57313-aba, page 16.

We understand that once the legislation is enacted that Government will move quickly to designating the banking, telecommunications and digital platforms sectors as regulated entities, and to developing the sector-specific codes where minimum standards will be established.

It is noted that the banking industry has already pleasingly materially progressed to deliver higher levels of protections to consumers through the launch of the ABA's Scam-Safe Accord. In our previous submission we noted that when implementing these codes, it is important to strike the right balance to ensure regulated entities, i.e. banks, fulfil their obligations without shifting these responsibilities onto their distribution channels, such as brokers.

Equally, caution is needed to ensure that obligations imposed on designated sectors, whether through SPF rules or a sector-specific code, are not inadvertently transferred to non-designated participants. AFCA should take particular care to recognise that these participants, such as smaller businesses, may not have the same capacity or resources as larger institutions like banks to meet these requirements.⁸ Non-designated sectors not bound by a SPF sector-specific code should not unfairly be held to standards to which they have not agreed.

We propose instead that banks and other industry participants (in partnership with the MFAA) collaborate with brokers (in addition to their own staff) to provide education and training, helping them to support scam awareness and education for the consumers who rely on their services.

Consumer education

Consumers play an important role in detecting and preventing scams, with the SPF noting education activities are important prevention activities.⁹

With nearly 75% of mortgages being facilitated by mortgage brokers, their role in educating customers about scams is crucial. Mortgage and finance brokers are well placed to raise scam awareness and guide and educate consumers on protecting themselves against scams as they are at the coalface dealing with customers on sensitive transactions.

Pleasingly we have seen banks recognise the important role brokers play as a first line of defence in scam prevention, recognising the trusted relationship that customers have with their brokers. Banks such as ANZ¹⁰ and NAB¹¹ have invested in supporting brokers to support their clients through educational resources. The MFAA encourages all banks to take this approach and see a place within the proposed code for banks to work closely with intermediaries like brokers to support scam awareness education and prevention initiatives.

CLOSING REMARKS

If you wish to discuss this submission or require further information, please contact either me at
or Stefania Riotta at

Yours sincerely

Naveen Ahluwalia
Executive, Policy and Legal
Mortgage and Finance Association of Australia

⁸ MFAA [response to Treasury consultation – Scams Prevention Framework – Exposure draft legislation](#), 4 October 2024.

⁹ Explanatory Memorandum, Attachment 1, paragraph 1.2.2, page 136.

¹⁰ Hendrickson, M, The Adviser, [How brokers can help clients be alert to scams](#), 28 August 2024.

¹¹ National Australia Bank report, [Market Megatrends 2024 – Navigating the Future](#), 2024.