

Committee Secretary  
Senate Economics Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

20 January 2009

Dear Sir

**Inquiry into Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008**

PricewaterhouseCoopers welcomes the opportunity to comment on *Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008* (the TOFA Bill) which was introduced into Parliament on 4 December 2008 and referred to the Senate Standing Committee on Economics.

**Summary**

PricewaterhouseCoopers supports the reform of the taxation treatment of financial arrangements in Australia.

PricewaterhouseCoopers supports the immediate passage of the TOFA Bill in its current form through Parliament.

PricewaterhouseCoopers recommends that the Government support further priority amendments, as necessary, to the TOFA Bill as business taxpayers begin implementing the new rules for the taxation treatment of financial arrangements and as the need for amendments are identified.

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### Specific comments

***PricewaterhouseCoopers supports the reform of the taxation treatment of financial arrangements in Australia.***

PricewaterhouseCoopers' client base is comprised primarily of large to medium sized businesses, emerging private groups, high net worth individuals and expatriate employees.

The TOFA Bill contains new rules for the taxation treatment of financial arrangements.

The majority of our client base will be affected by the new rules contained in the TOFA Bill and the clients affected must consider the impact of the TOFA Bill on their business, their systems and their customers.

The current law does not adequately deal with the taxation treatment of financial arrangements and this creates uncertainty, compliance costs and risks for business taxpayers under the self-assessment system.

PricewaterhouseCoopers therefore supports the reform of the taxation treatment of financial arrangements in Australia to reduce uncertainty, compliance costs and risks for business taxpayers.

***PricewaterhouseCoopers supports the immediate passage of the TOFA Bill in its current form through Parliament.***

The gestation period for the new rules for the taxation treatment of financial arrangements has been too long. This has caused many business taxpayers to "disengage" in the consultation process in relation to the specific measures contained in the TOFA Bill. It also means that the necessary improvements to the taxation system are deferred.

It is PricewaterhouseCoopers' experience that no piece of taxation legislation will ever be perfect. This is likely the case with the TOFA Bill.

However, it is only through the passage of the TOFA Bill through Parliament and Royal Assent that business taxpayers will commit time and resources to consider the new rules for the taxation of financial arrangements and the impact of the TOFA Bill on their

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business, their systems and their customers. This will likely identify the need for certain amendments to the TOFA Bill.

Our view is that it is preferable to enact the TOFA Bill now so as to allow taxpayers the earliest opportunity to consider the new rules and access their benefits, rather than delay its passage until all possible changes are identified and dealt with.

PricewaterhouseCoopers therefore supports the immediate passage of the TOFA Bill in its current form through Parliament.

***PricewaterhouseCoopers recommends that the Government support further priority amendments.***

If the passage of the TOFA Bill through Parliament is deferred, for instance, to engage in further consultation with industry and professional bodies, it is our view that business taxpayers will simply further defer and postpone the commitment of time and resources to consider the new rules.

It is this commitment of time and resources by business taxpayers that is required in order to identify any technical or practical aspects of the TOFA Bill that require review and refinement by way of further amendment.

In our view, the TOFA Bill in its present form does not contain any fundamental deficiencies that will prevent business taxpayers commencing to implement the new rules for the taxation treatment of financial arrangements.

However, the implementation process will identify the need for further “fine tuning” and amendments.

PricewaterhouseCoopers therefore recommends that the Government support further priority amendments, as necessary, to the TOFA Bill as business taxpayers begin implementing the new rules for the taxation treatment of financial arrangements and as the need for amendments are identified. Indeed, we see the TOFA Bill as an ideal test case for implementing one of the recommendations of the Tax Design Review Panel's report - *Better Tax Design and Implementation*<sup>1</sup>:

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<sup>1</sup> Refer Assistant Treasurer and Minister for Competition Policy and Consumer Affairs' media release (No 069), issued on 22 August 2008

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Post-implementation monitoring and review

*The Panel proposes that the tri-partite team it recommends for developing tax measures should also monitor the early implementation of the measure, identifying any legislative refinements needed and ensuring that the ATO has provided appropriate administrative products and guidance material.*

If you require any further information in relation to our comments, please contact Matt Osmond on 03 8603 5883 or at [matt.osmond@au.pwc.com](mailto:matt.osmond@au.pwc.com) or David Romans on 03 8603 6862 or at [david.romans@au.pwc.com](mailto:david.romans@au.pwc.com).

Yours sincerely



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