

ASIC

Australian Securities & Investments Commission

Level 24, 120 Collins Street
Melbourne VIC 3000
GPO Box 9827 Melbourne VIC 3001

Telephone (03) 9280 3200
Facsimile: (03) 9280 3288

John Price
Acting Executive Director, Regulation

22 February 2008

Submissions
Garnaut Review Secretariat
Level 2, 1 Treasury Place
EAST MELBOURNE VIC 3002

By email and post: contactus@garnautreview.org.au

Dear Sir/Madam

Garnaut Climate Change Review Issues Paper

I understand you are inviting submissions on the Issues Paper "Financial Services for Managing Risk - Climate Change and Carbon Trading".

To assist, we set out below some background information on the scope of the financial services regulatory framework and its relevance to environmental markets in Australia.

ASIC and financial services regulation

The Australian Securities and Investments Commission (*ASIC*) is an independent Commonwealth Government body. One of ASIC's responsibilities is the regulation of financial products and services and financial markets under Chapter 7 of the *Corporations Act 2001 (Act)*. The key elements of this regulatory framework are:

- product disclosure
- licensing and conduct of financial service providers; and
- licensing of financial markets and clearing and settlement facilities.

The legislation relies on a broad definition of "financial product" which focuses on three key functions associated with the product, namely (1) making a financial investment, (2) managing a financial risk, and (3) making non-cash payments. In addition, there is a list of products (for example, derivatives) that are specifically included in the definition. Certain other products are specifically excluded from regulation under the Act.

If a product is a financial product, certain consequences arise for persons who carry on a financial services business in relation to the product. Financial services includes advising on, dealing in, or making a market in financial products, operating a registered managed investment scheme and providing custodial or depository services. Financial services providers are generally required to hold a financial services licence and must meet certain minimum standards of conduct when dealing with clients.

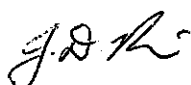
The legislation also contains a disclosure regime in relation to financial products. Retail consumers must be provided with sufficient information about the financial product. The disclosure requirements are broadly designed to ensure that retail consumers are provided with a product disclosure statement at the earliest possible time to allow the consumer to make an informed decision regarding the acquisition of the product.

If a financial product is traded regularly on a financial market, the operator of the market is required to hold a market licence. ASIC is responsible for ensuring that participants on a market comply with the Act and for the oversight of the market licensee.

ASIC welcomes the opportunity to discuss the above in more detail and to assist the Review to explore the role of Australian financial markets and how these may facilitate the management of risks and opportunities associated with climate change and carbon trading.

If you have any questions, please do not hesitate to contact me.

Yours sincerely



John Price
Acting Executive Director
Regulation Directorate