

**CONSULTATION AGREEMENT BETWEEN**  
**THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION (ASIC)**  
**AND**  
**THE FINANCIAL MARKETS STANDARDS BOARD (FMSB)**

**1. Definitions**

1.1 For the purposes of this Consultation Agreement:

"Laws and Regulations" means any laws, regulation or regulatory requirement applicable in the jurisdiction of a Party.

"Party" means FMSB or ASIC, and collectively shall be referred to as the 'Parties'.

"Person" includes a natural person, unincorporated association, partnership, trust investment company or corporation.

**2. Background**

2.1 The Financial Markets Standards Board (FMSB) was established pursuant to the Fair and Effective Markets Review led by the Bank of England, the Financial Conduct Authority and HM Treasury. FMSB's core mission is promoting fair and effective wholesale fixed income, currencies and commodities (FICC) markets for all participants in those markets.

2.2 ASIC was established by section 7 of the *Australian Securities and Investments Commission Act 1989* and is continued in existence by section 261 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act). ASIC is a regulatory and law enforcement agency for, company, financial services, markets and consumer credit laws, and has a range of functions, including the function of monitoring and promoting market integrity and consumer protection in relation to the Australian financial system.

2.3 FMSB and ASIC have strong shared interests in maintaining, and where appropriate improving, the operation of wholesale FICC markets and this underpins the close strategic and working relationship set out in this Consultation Agreement.

**3. FMSB Ownership, Purpose, Structure and Governance**

3.1 FMSB is a privately-owned organisation, funded by its members.

3.2 FMSB's primary objectives are to promote fair and effective global wholesale FICC markets by examining vulnerabilities in these markets (whether due to

current, envisaged or emerging future market structures or practices); to produce clear guidance on how business should be conducted to eliminate or mitigate these vulnerabilities; to promulgate this guidance as widely as possible globally and obtain commitments for its use. ASIC is supportive of these primary objectives. FMSB also contributes to work with other bodies internationally to promote global convergence of standards in FICC markets and to promote high standards of training and qualifications for personnel in FICC markets worldwide. FMSB promotes robust and open discussion of market practices and challenges in accordance with all applicable principles and requirements of competition laws.

- 3.3 FMSB does not produce any formal regulation, nor does it engage in any lobbying, representation or commercial activities. FMSB materials are designed to guide best market practice in (i) unregulated markets and (ii) regulated markets, in each case where there is need for specific guidance on market practice that is not already contained in the applicable rules and regulations. FMSB will take reasonable steps to avoid inconsistencies in its guidance and materials with existing legislation, rules, regulations and market codes aimed at promoting best practice produced by other bodies in the United Kingdom or overseas.
- 3.4 FMSB is structured as a company limited by guarantee (Financial Markets Standards Board Limited (FMSB Ltd)) with a number of formal committees that oversee aspects of its work: a Standards Board (including associated sub-committee and working groups), an Advisory Council and an Adherence Oversight Committee. The directors of FMSB Ltd and the members of its committees (including associated sub-committees and working groups) are appointed by FMSB governance processes.
- 3.5 FMSB prepares and updates annually a three-year rolling strategy (Strategy) setting out its goals and an operating plan for achieving this Strategy. This Strategy is developed by the board of directors of the Financial Markets Standards Board Limited with assistance from the FMSB Advisory Council and is discussed with the FMSB Standards Board.

#### **4 Purpose and Scope of the Consultation Agreement**

- 4.1 The purpose of the Consultation Agreement is to set out the expectations of the Parties. The FMSB may consult with ASIC in the development of draft guidance materials and publications for the FMSB. This may involve:
  - a) The FMSB Chair and/or the CEO discussing the annual FMSB Strategy refresh with ASIC as it develops in order that ASIC can provide constructive challenge on the Strategy for the benefit of the FMSB Standards Board and Advisory Council.

- b) The FMSB Chair and/or the CEO providing ASIC with a high-level oral update on FMSB Strategy and its progress on the Strategy at, at least, a six-monthly interval.
  - c) The FMSB CEO and/or the Secretariat providing ASIC with at least quarterly operational oral updates on progress on the Strategy.
- 4.2 The FMSB Secretariat shall provide ASIC with details about forthcoming drafts of FMSB's proposed Standards, Statements of Good Practice, and other publications. The FMSB Secretariat shall provide ASIC with copies of those draft documents upon ASIC's request, to give ASIC an opportunity to comment on them. ASIC may comment on the draft guidance materials and publications where appropriate but, is under no obligation to do so. The provision of drafts to, and the provision of comments by, ASIC does not constitute any implicit or explicit endorsement of the drafts or final publications. The FMSB Secretariat shall notify ASIC of all its publications, communications and events.
- 4.3 All FMSB Standards Board and Advisory Council meetings are divided into "Open" and "Closed" sessions. At "Closed" sessions only firms which are contractual members of FMSB (and other firm representatives who are not contractual members, at the sole discretion of the Chair) participate, and it is expected that there may be at least one "Closed" session per annum. For example, a 'Closed' session may be used for reviews of first drafts of new Standards, or where members have not yet had the chance to comment on FMSB materials. More advanced drafts of Standards, Statements of Good Practice and other publications are generally discussed in "Open" sessions. ASIC is invited to participate as an observer in the "Open" sessions of all Standards Board and Advisory Council meetings. All Standards Board or Advisory Council meetings will be "Open" unless the FMSB informs ASIC that the session, or part thereof, will be "Closed" at least one week before the relevant Advisory Council or Standards Board meeting.

## **5 Duration of the Agreement**

- 5.1 This Consultation Agreement takes effect from the date of execution and will continue to have effect for two years (or such longer period as is agreed in writing by the Parties) after the date of execution until the Agreement is terminated by mutual agreement or by either Party giving at least 30 days' written notice of termination to the other Party.

## **6. Confidentiality and use of information**

- 6.1 FMSB must ensure that any comments made by ASIC in relation to any draft publication or guidance material of FMSB are kept confidential, unless otherwise agreed in writing between the Parties. The FMSB will promptly notify ASIC in writing of requests from third parties for details of ASIC's comments that have been furnished under this Consultation Agreement.


**7. Status of Consultation Agreement**

7.1 This Consultation Agreement sets out the understanding between the FMSB and ASIC and is intended to clarify the expectations of all Parties. This Consultation Agreement is personal to each party and no third party may rely upon it. The Parties will use reasonable endeavours to meet the terms of this Consultation Agreement but this Consultation Agreement is not legally binding and does not create any obligations enforceable by any party, confer any rights or supersede any domestic laws. None of the Parties shall have any rights or remedies against the other in respect of any failure by any other party to carry out its roles or responsibilities under or in accordance with this Consultation Agreement.

**8. Maintenance and review of Consultation Agreement**

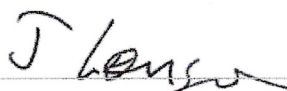
- 8.1 The consultation arrangements under this Consultation Agreement should be interpreted and implemented in a manner that is permitted by, and consistent with, the Laws and Regulations.
- 8.2 The Parties intend to periodically review the functioning and effectiveness of this Consultation Arrangement.
- 8.3 This Consultation Agreement may be amended if both Parties agree in writing to do so.

Signed by  
**Myles McGuinness**  
Financial Markets  
Standards Board

} Signature 

Date 26 September 2022

Signed by  
**Joseph Longo**  
Australian Securities  
and Investments  
Commission

} Signature 

Date 26 September 2022