



The Manager  
Taxation of Financial Arrangements  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
[tofa@treasury.gov.au](mailto:tofa@treasury.gov.au)

22 February 2006

Dear Sir

**Taxation of Financial Arrangements  
Stages 3 and 4 – Exposure Draft Legislation**

The Australian Securitisation Forum ("ASF") supports the Government's ongoing reform of the Business Tax System and welcomes the exposure draft legislation of the proposed "TOFA 3/4 rules".

The ASF requests Treasury to recognise that typical securitisation vehicles are a specific type of conduit vehicle that are structured to be bankruptcy remote so as to ensure the debt issued by them will attract as high a credit rating as possible (and thus allow the cost of funding the assets being securitised to be as low as possible).

In part, the bankruptcy remoteness of these vehicles is only able to be achieved if there is a high degree of certainty that the assessable income of the vehicle is no more than its commercial profit (with the result that it has enough cash to meet its income tax liabilities, if any).

The ASF will support the TOFA 3/4 rules provided the outcomes under them for typical securitisation vehicles are certain, straightforward and do not produce a net taxable income position for those vehicles which does not align with the cash profit position of those vehicles ( the "Desired Outcome").

At present, the ASF feels there is insufficient detail about the new rules to be confident that the Desired Outcome will be achieved. In particular there is a lack of detail around the way the new rules will link with the existing capital gains tax provisions, withholding tax provisions, FX provisions and the taxation of trusts provisions in the Tax Act.

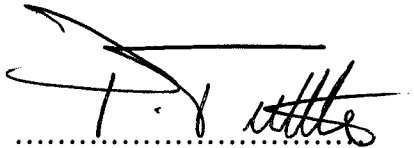
Putting aside those issues, the ASF is hopeful that the fair value election rules ultimately settled on will allow typical securitisation vehicles to achieve the Desired Outcome. The main issue here is not so much the drafting of the fair value tax rules but rather achieving sufficient certainty about the AIFRS accounting outcomes of typical securitisation vehicles.

Restated, the ASF hopes to be able to support new TOFA rules that allow typical securitisation vehicles to align the taxation of their financial arrangements with their accounting treatment provided (or once) there is sufficient certainty of the AIFRS outcomes.

If the AIFRS outcomes are not sufficiently certain by the time the TOFA rules are nearing finalisation, or the TOFA rules ultimately settled on do not allow securitisation vehicles to reflect that same AIFRS position for all tax purposes, then the ASF would wish to discuss with Government the need to introduce specific provisions in the new TOFA rules that ensure the Desired Outcome.

Representatives of the ASF would be pleased to meet with Treasury to discuss this matter further as required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Tuttle', written over a horizontal line. The signature is stylized and cursive.

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Patrick Tuttle  
**Chairman - Taxation Sub-Committee**  
**Australian Securitisation Forum, Inc.**