

15 May 2025

Australian Energy Market Commission

Submitted online



Cash Credit Support – Draft Determination

The Australian Financial Markets Association (AFMA) is responding to the AEMC's draft determination on Delta's rule change to allow AEMO to accept cash as credit support.

AFMA is the leading financial markets industry association promoting efficiency, integrity and professionalism in Australia's financial markets, including the capital, credit, derivatives, foreign exchange, energy, carbon, and other specialist markets. Our membership base is comprised of over 130 of Australia's leading financial market participants, including many energy firms who are key participants in the NEM.

Key Points

- **AFMA supports making this rule change**
 - **The cash cap should be increased to more than \$5 million**
 - **Prudential supervision requirements for credit support providers should remain aligned with broader financial service law**
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1. Support for proposed change

AFMA supports updating AEMO's credit support arrangements to ensure they remain suitable for the market. Giving market participants greater flexibility about how they provide credit support is a positive development for the market that may reduce the cost of providing credit support for some participants, that said AFMA understands AEMO has some operational concerns about the use of surety bonds which should be addressed as part of the rule change. AFMA also supports the AEMC's decisions to require the payment of interest on any cash provided as credit support and to update AEMO's settlement revision process. While we consider that these changes will incrementally improve AEMO's credit support framework, we continue to think that a more comprehensive review of the arrangements is warranted.

2. \$5 million threshold

Capping the amount of credit support participants can provide with cash is a simple and pragmatic approach to minimising the markets exposure to clawback risk. While AFMA supports this approach, the feedback from our members is that the proposed \$5 million cap is too low for all but the smallest retailers and is too low to address Delta's concerns. AFMA therefore proposes increasing the cap to \$20 million which we feel provides an appropriate balance between mitigating clawback risk and ensuring that cash credit support is useful to the market. To ensure this number remains commercially relevant AFMA suggests that it should be indexed either by CPI or by reference to the Market Price Cap.

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3. Prudential supervision

Expanding the number of eligible credit support providers is a positive move that will improve participants' ability to access credit support, but AFMA is concerned that the proposed approach, of essentially allowing all foreign banks and insurers, may be too expansive and expose the market to new, not fully understood, risks.

Financial sector regulators and policy makers have devoted significant thought to the question of who should be able to offer banking and insurance services in Australia. Their policy considerations have aimed to balance the benefits of participation in the Australian market by foreign institutions with the need to preserve the soundness of the Australian Financial system. In both insurance and banking policy makers have, with very limited exceptions,¹ required foreign institutions wishing to offer banking or insurance services to Australian people and businesses to be regulated by APRA. Given the extensive consideration of these issues by expert government agencies, AFMA considers the AEMC should ensure that any changes to energy rules are consistent with applicable financial services regulation.

AFMA is also unsure if in practice the proposed changes would achieve the AEMC's objectives. Clause 3.3.3 (b) of the National Electricity Rules requires credit support providers to "be resident in, or have a permanent establishment in, Australia." AFMA considers that this residency requirement makes it unlikely that the proposed changes will increase the number of credit support providers. Banks and insurers who wish to offer banking and insurance products in Australia through local offices are required to be regulated by APRA and foreign firms who are present without being regulated are not permitted to offer these services to Australian customers.² AFMA does not support removing the residence requirement as we consider it would be impractical for AEMO to be required to enforce securities against foreign credit support providers, but notes that in practice it may reduce the impact of the proposed change.

AFMA Recommendations

- i. The cap on cash credit support should be increased to \$20 million and indexed.
- ii. Only banks and insurers regulated by APRA should be able to offer credit support.

AFMA would welcome the opportunity to discuss this submission further and would be pleased to provide further information or clarity as required. Please contact me at lgamble@afma.com.au or 02 9776 7994.

Yours sincerely,



Lindsay Gamble

Head of Energy and Carbon

¹ Regulation 10 of the *Insurance Regulations 2024* provides very limited circumstances when a Direct Offshore Foreign Insurer may offer insurance products to large firms for atypical risks

² See APRA Guidelines for [Foreign Banks](#) and [General Insurers](#)