Law Council
OF AUSTRALIA

Scams Prevention Framework rules and sector codes

Treasury

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Acknowledgements

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- the Competition and Consumer Committee and Privacy Law Committee of its Business Law Section; and
- the Australian Consumer Law Committee of its Legal Practice Section;

for their contribution to the preparation of this submission.

Introduction

1. The Law Council of Australia welcomes the opportunity to make a submission to the Treasury in response to the consultation on draft codes and rules under the Scams Prevention Framework (**SPF**).

2. We note that the consultation package includes:

    - a draft instrument setting out common code obligations for all sectors and specific obligations for banks and digital platforms;
    - a draft instrument setting out code obligations for the telecommunications sector;
    - a draft instrument setting out rules under the SPF;
    - explanatory materials for the draft codes and rules; and
    - a *Guide to Scams Prevention Framework rules and sector codes consultation* (**Guide**); and
    - a position paper on internal dispute resolution under Part IVF of the *Competition and Consumer Act 2010* (Cth) (**CCA**).

3. The Law Council previously contributed to the Treasury's consultations on the SPF, including a submission on the exposure drafts of the Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2025 and Competition and Consumer (Scams Prevention Framework—External Dispute Resolution) Authorisation 2025, dated 12 January 2026.[1] The Law Council welcomes the Treasury's responsiveness to a number of the issues raised in that submission.

4. The Law Council's feedback on the current consultation materials is set out below, which includes general observations as well as comments on privacy safeguards. This submission also responds to the following questions set out in the Guide:

    - General (Question 2);
    - Banking designation exceptions (Question 8);
    - Statement of compliance (Question 9);
    - Internal Dispute Resolution (Questions 11); and
    - Banking Provisions in the SPF Sector Codes (Questions 13, 15–18).

5. The Law Council received feedback from different Section Committees to inform this submission. Where one particular Committee expressed a view on a particular topic we have attributed that view to that Committee.

[1] Law Council of Australia, Scams Prevention Framework (Submission, 12 January 2026).

General observations

Insufficient consultation time

6. This consultation opened on 28 May 2026 with submissions due by 25 June 2026, providing 20 business days for consultation (excluding a public holiday). This follows a similarly truncated response period of 23 business days (excluding public holidays) for the December 2025 consultation on the draft law package and position paper on the Scams Prevention Framework.

7. The consultation package includes draft instruments imposing various obligations on regulated entities, with some of these obligations relating to new practices, and seeks feedback on substantial questions concerning interpretation, implementation, and compliance. The compressed consultation timeline does not allow for adequate or meaningful engagement with the complex issues raised by the consultation materials, and heightens the risk of unintended adverse consequences for the economy and particularly for the regulated sectors.

Certainty of obligations

8. The SPF rules and codes contemplate a complex set of obligations to govern the conduct of regulated entities and the rights of consumers under the SPF. A full explanation of the Framework to consumers and industry participants is desirable, to provide certainty, given that businesses will be required to invest significant resources to ensure compliance with the SPF rules and their common and sector-specific SPF code obligations.

9. The Law Council received feedback that at least some of the proposed SPF rules may be very resource-intensive or even impossible to implement. We therefore recommend detailed engagement with affected sectors to ensure an efficient and effective mechanism for preventing consumer harm.

Definitions

Definition of *"designated social media service"*

10. The Competition and Consumer Committee (**C&C Committee**) of the Law Council's Business Law Section welcomes the Treasury's adoption, in *Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2026* (Cth) (**SPF designation instrument**),[2] of a definition of "designated social media service" that broadly aligns with an existing definition under section 63C of the *Online Safety Act 2021* (Cth) (**OSA**). Although the C&C Committee's view was that the narrower definition under section 13 of the OSA would be more appropriate for the SPF, Treasury's express exclusions for email, gaming, education, health, and dating services goes some way to addressing the uncertainty that may arise under the section 63C definition. This is also consistent with the C&C Committee's position at paragraphs 11 and 12 of the Law Council's January 2026 submission, which

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[2] *Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2026* (Cth) s 7.

recommended adopting a consistent legislative definition to promote certainty and reduce the regulatory burden on businesses navigating multiple regimes.[3]

Scope of *"designated internet search service"*

11. The C&C Committee welcomes the decision in the SPF designation instrument to narrow the scope of the "designated internet search service" to paid advertising on search engines,[4] rather than applying obligations to search engine services and their organic search results generally. This is consistent with the C&C Committee's observation at paragraphs 21 and 22 of the Law Council's January 2026 submission that it would not be feasible to apply a single set of code requirements to both paid advertising and organic search results.[5]

Definition of *"instant messaging service"*

12. The C&C Committee welcomes the adoption in the SPF designation instrument of the C&C Committee's suggestion (at paragraphs 9(a) and (b) of the Law Council's January 2026 submission) to clarify that the definition of "instant messaging service" includes real-time communication of non-text-based material.[6]

Definition of *"scam"*

13. The Treasury has indicated that it will make rules to further refine the definition of a "scam", including to exclude conduct that is otherwise misleading or deceptive by a legitimate business or Australian Financial Services Licence holder.[7] This remains consistent with the C&C Committee's position noted at paragraphs 49 to 51 of the Law Council's January 2026 submission,[8] which recommended that conduct already governed by the Australian Consumer Law (such as false or misleading representations under section 29 of Schedule 2 to the CCA) should be expressly excluded from the definition of a scam. The C&C Committee questions, however, whether the definition of such a core concept should be left to subordinate legislation.

Internal Dispute Resolution

Timeframes for Statement of Compliance

14. The C&C Committee notes that the Treasury has reduced the timeframe for providing a statement of compliance from 30 calendar days (as proposed in the December 2025 Position Paper)[9] to 21 calendar days in the exposure draft SPF rules.[10] The C&C Committee queries whether this shortened timeframe is practicable for multi-

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3 Law Council of Australia, Scams Prevention Framework (Submission, 12 January 2026).
4 *Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2026* (Cth) s 6.
5 Law Council of Australia, Scams Prevention Framework (Submission, 12 January 2026).
6 Ibid.
7 Treasury, Guide to Scams Prevention Framework rules and sector codes consultation (May 2026) 2.
8 Law Council of Australia, Scams Prevention Framework (Submission, 12 January 2026).
9 The Treasury, Advancing Australia's Scams Prevention Framework through Codes and Rules (Position paper, November 2025) 20.
10 Exposure Draft Explanatory Statement, Competition and Consumer (Scams Prevention Framework) Rules 2026 (Cth) 9.

party scam complaints involving regulated entities across different sectors (for example, where a bank needs to cooperate with a telecommunications provider and a digital platform to investigate a complaint).

15. Further, the exposure draft SPF rules have also broadened the kinds of information to be included in a statement of compliance compared to the December 2025 Position Paper.[11] In particular, the exposure draft SPF rules now require an entity to include any findings on material questions of fact on matters raised in a complaint, including where these facts relate to the conduct of another entity.[12] When combined with the reduced timeframe for providing a statement of compliance and the need to consult with other regulated entities, this will place significant burden on regulated entities to meet the deadlines under the SPF.

Position paper

16. The Treasury outlines significant new policy positions in the Internal Dispute Resolution (**IDR**) position paper, including automatic reimbursement for verified scam losses below $3000, and equal apportionment of liability between breaching entities unless there is unanimous agreement that one entity played a more significant role in the scam chain.[13]

17. The C&C Committee and the Australian Consumer Law Committee (**ACL Committee**) of the Law Council's Legal Practice Section shares the view that it is not clear how an automatic reimbursement model would operate in conjunction with the principle of equally shared liability across multiple regulated sectors.

18. The ACL Committee notes that the UK mandatory reimbursement model operates only within the banking sector (with losses shared between the sending and receiving bank) and therefore does not serve as an example of how the SPF's multi-regulated sector model could operate.

19. The C&C Committee notes that the lack of clarity risks claims tending towards External Dispute Resolution contrary to the legislative intent. This is particularly the case given that most scams will typically involve more than one regulated entity, and, in a scenario where two regulated entities are involved in a scam, it is difficult to see how unanimous agreement can be reached.

20. The ACL Committee is supportive of an automatic compensation approach. However, more detail is needed as to how the approach would work in practice. In particular, the ACL Committee is concerned that there is no specification of a "verified" scam loss.[14] There are also no details about the limits of the policy. For example, is it intended to apply per scam, per transaction, per regulated entity and/or per consumer? Furthermore, is it intended that there is a yearly reimbursement limit

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[11] The Treasury, Advancing Australia's Scams Prevention Framework through Codes and Rules (Position paper, November 2025) 20.

[12] Exposure Draft Explanatory Statement, Competition and Consumer (Scams Prevention Framework) Rules 2026 (Cth) 7.

[13] The Treasury, Internal Dispute Resolution under the Scams Prevention Framework (Position paper, May 2026) 3.

[14] Ibid.

or a lifetime reimbursement limit? More information is needed so that consumers can assess their eligibility under the automatic compensation process.

21. This uncertainty is demonstrated in the below case study:

> ***Case study: Susan***
>
> *Susan clicks a Facebook ad about an investment trading course and then transfers $4000 into a third-party bank account to 'purchase' access to the course. Susan cannot log into the website and then, shortly after, it disappears. Susan informs the bank of the scam and seeks to access up to the automatic reimbursement of $3000.*

22. With Susan's case study in mind, will the automatic compensation approach allow Susan to access a partial reimbursement of up to $3000?

23. The ACL Committee recommends mapping several case studies of the consumer journey through a scam complaint and its resolution through the automatic compensation approach to provide consumers with transparency about the process and eligibility requirements.

24. Further, any automatic compensation approach needs to have appropriate safeguards in place to ensure that scammers do not manipulate the system. The ACL Committee notes that other scam reimbursement models contain provisions that prevent abuse of the system, such as the UK Consumer Standard of Caution.[15]

Guide to Scams Prevention Framework rules and sector codes consultation questions

25. The ACL Committee offers the following responses to the questions posed in the Guide to Scams Prevention Framework rules and sector codes consultation.

General questions—Question 2

Question 2: Are there any transition arrangements required to support industry compliance?

26. The ACL Committee's view is that no transition arrangements are required to support industry compliance. While the SPF represents significant reform for the regulated sectors, the ACL Committee considers that the already-delayed start-date of 31 March 2027 for the substantive obligations provides sufficient time for industry to respond and implement compliance measures.

[15] Payment Systems Regulator, Guidance: Authorised push payment fraud reimbursement (December 2023).

Banking designation exceptions—Question 8

Question 8: Does the proposed exception of providers of PPFs appropriately capture standalone PPF providers? Are there any inadvertent consequences of this exception?

27. The ACL Committee considers that excluding standalone purchased payment facility (**PPF**) providers from the application of the SPF may create consumer confusion and possible harm. The exposure draft SPF rules provide a complete exception from the banking sector designation for providers of PPFs,[16] but PPFs will be "covered banking services" when provided by an authorised deposit-taking institution that otherwise carries on banking business.[17] The ACL Committee is concerned that scammers will exploit these gaps and pivot to scams involving products such as PPFs from standalone providers, as those providers will be under no obligations to prevent, detect & disrupt scam activity.

28. A common form of PPFs are pre-paid travel cards. These cards are marketed by providers as a safe way to hold local or foreign currency when travelling, while keeping consumer's everyday banking accounts safe. The ACL Committee notes that, unfortunately, scams and fraudulent transactions are extremely prevalent while undertaking overseas travel and the ACL Committee is concerned that consumers will be unaware of this carve-out and vulnerable to financial loss as a result.

29. The ACL Committee notes that PPF providers are obliged by the Australian Prudential Regulation Authority's (**APRA**'s) Prudential Standards to undertake internal and external fraud risk management, have a reasonable limit on the amount of stored value, have adequate systems for the identification of purchasers and the recording and tracing of transaction data, and comply with Australian Transaction Reports and Analysis Centre (**AUSTRAC**) requirements.[18] The ACL Committee also notes that proposed regulatory reforms relating to payment service providers, including stored value payment systems are well advanced.[19] The ACL Committee submits that PPF providers who do not engage in other banking business should not be excepted from the banking services regulated sector. If the exception is to be maintained, the ACL Committee recommends it should be reviewed at the earliest opportunity after the payment system modernisation reforms come into effect.

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16 Exposure Draft Competition and Consumer (Scams Prevention Framework) Rules 2026 (Cth), s 3-2.
17 Ibid s 1-4.
18 Australian Prudential Regulation Authority, APS 610 Prudential Requirements for Providers of Purchased Payments Facilities (11 May 2023) ss 18(e), 20.
19 The Treasury, Payments licensing reforms (Web Page, 12 March 2026).

Statement of compliance—Question 9

Question 9: How can the statement of compliance requirements in the SPF rules support the efficient and early resolution of complaints where a complaint is resolved quickly to a consumer's satisfaction?

30. It is the ACL Committee's view that the purpose of the statement of compliance process is to shift the information imbalance between consumer and business in the context of scam transactions and allow for an information exchange before finalising the IDR process, with a goal of early and efficient resolution of complaints.

31. To facilitate these stated objectives, the ACL Committee recommends two related amendments to the statement of compliance obligations:

    - relief from a full statement only if a consumer is being fully compensated for their losses; and

    - a corresponding removal of the proposed right to a full statement after an initial complaint resolution.

32. In its current proposed form (where a full statement of compliance is not required where a complaint is resolved to a consumers' satisfaction within 5 business days),[20] vulnerable consumers may feel pressure to accept complaint resolutions without the necessary information required to assess an entity's compliance with the SPF and their resulting prospects of compensation. At this initial stage of the complaint process there is a signification information asymmetry between the consumer and the regulated entity, such that a consumer (or their advisor) is generally unable to make informed decisions about the reasonableness of any resolution offers. The ACL Committee is concerned that pushing consumers to make quick, uninformed decisions will not support efficient complaint resolution.

33. The ACL Committee considers these changes will shift the information imbalance between consumer and business in the context of scam transaction, while still encouraging the early, efficient, and transparent resolution of complaints.

[20] Exposure Draft Competition and Consumer (Scams Prevention Framework) Rules 2026 (Cth) s 2-1(2); and Exposure Draft Explanatory Statement, Competition and Consumer (Scams Prevention Framework) Rules 2026 (Cth) 7.

Dispute Resolution—Question 11

Question 11: Should the internal dispute resolution guidance in the SPF rules enable regulated entities to apply a consumer contribution or excess to scam reimbursements?

34. The ACL Committee opposes the implementation of SPF rules enabling entities to charge consumer contributions or excess payments to scam reimbursements. Scams and scam prevention are not analogous to insurance, and it would be counterproductive to create disincentives for consumers making and pursuing complaints. Further, any expenses incurred by industry in reimbursing consumers and complying with the SPF should not increase the cost of services to consumers.

SPF Sector Code provisions—Questions 13, 15 to 18

Question 13: The draft common code provisions are intended to require regulated entities to work together effectively to resolve multi-party scam complaints through internal dispute resolution (section 2.26). This reflects that a single scam event will often involve several entities. Does the draft code effectively require cooperation between entities during internal dispute resolution to support consumers making complaints involving more than one entity?

35. The ACL Committee welcomes measures that promote cooperation between regulated entities to improve outcomes for consumers navigating scam loss complaints involving multiple entities. The common code provisions require regulated entities to have systems and processes that enable them to respond to information requests from other regulated in relation to the complaint within a reasonable timeframe and to cooperate in determining the apportionment of liability.[21]

36. However, the ACL Committee is concerned that, although the draft code prescribes "cooperation" during the IDR process, it is unclear whether this will result in improved consumer outcomes. In practice, entities will be responsible for self-disclosing relevant information and assessing their own liability at the IDR stage. Further, "cooperation" is a broad principle rather than a set of clearly defined obligations, which may limit its effectiveness unless supported by more specific requirements.

37. The code should also ensure that differences in the maturity or sophistication of IDR processes across regulated entities do not adversity affect consumers. The ACL Committee considers it appropriate for regulated entities to retain a right to recover reimbursement amounts directly from other regulated entities outside the external dispute resolution (**EDR**) process. This would allow an entity to fully compensate a consumer promptly while resolving any issues of shared liability separately with other regulated entities, thereby reducing the risk that inter-entity disputes delay consumer redress.

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[21] Exposure Draft Competition and Consumer (Scams Prevention Framework—SPF Codes) Instrument 2026 (Cth) s 2-26.

Question 15: The draft code requires banks to identify transactions or activities that are a high-risk of being used to facilitate scams and take proportionate preventative action to limit scam losses before funds leave the system and it is impossible to recover them (sections 3-4 to 3-7). Is it clear what is meant by transactions and activities that 'have a high risk of being, or facilitating, a scam' (section 3-4)?

38. The ACL Committee considers the types of transactions identified in the Explanatory Statement effectively capture activities that "have a high risk of being, or facilitating a scam",[22] although the ACL Committee suggest that the reference to "making large or unusual payments that are inconsistent with the customer's typical transaction patterns" should be expanded to read "large or unusual payments or withdrawals".[23] The ACL Committee notes that scam clients have often been instructed to withdraw large sums of cash to purchase gift cards or deposit to a cryptocurrency ATM and it should be explicit that banks should be monitoring for this high-risk activity.

Question 16: Does the draft code make it sufficiently clear what steps are expected of banks who identify the transactions or activities referred to in section 3-4?

39. The ACL Committee considers that sections 3-5 to 3-7 of the draft code provide a clear and suitable indication of the steps expected of banks who identify transactions and activities that have a high risk of being or facilitating a scam. What is meant by "proportionate action" (section 3-6) and "action proportionate to the risk" (section 3-7) is usefully informed by the Explanatory Memorandum.[24]

Question 17: Does the draft code include sufficient obligations on sending banks to disrupt scam activity (division 4), and is it clear that the disrupt obligations extend to both sending and receiving banks?

40. The ACL Committee is concerned that the terminology "if a regulated bank … *reasonably believes*" (emphasis added) in draft sections 3-11 and 3-12 could be interpreted as permitting a subjective element before the bank's obligations are enlivened.[25] For this reason, the ACL Committee suggests adhering to the terminology used in draft section 2-10—which is "reasonable grounds to believe". As provided in draft section 2-10(2), "the entity must identify the activity as a scam if the entity has reasonable grounds to believe that the activity is a scam".[26] For the sake of consistency and coherence and to avoid ambiguity, draft sections 3-11 and 3-12 should be reworded to apply "if a regulated bank … *has reasonable grounds to believe"*.

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22 Ibid s 3-4.

23 Exposure Draft Explanatory Statement, Competition and Consumer (Scams Prevention Framework-SPF Codes) Instrument 2026 (Cth), 35.

24 Ibid 37-8.

25 Exposure Draft Competition and Consumer (Scams Prevention Framework—SPF Codes) Instrument 2026 (Cth), ss 3-11 and 3-12.

26 Ibid s 2-10(2).

41. The ACL Committee notes that payment recall requests and blocking accounts associated with scams are broadly sufficient "disrupt" obligations.

42. The ACL Committee also considers that draft section 3-11 makes it sufficiently clear that recall obligations apply to both sending and receiving banks.[27]

43. Further, the ACL Committee notes that the obligation in draft section 3-12 to block accounts has broader application than a receiving bank acting in response to a notification from a sending bank under draft section 3-11. The ACL Committee suggests making it clear that a notification from a sending bank under section 3-11 would trigger the blocking obligation in section 3-12.[28]

Question 18: Do the payment recall request obligations accurately reflect industry practice around payment recalls (section 3-11)? Is there a more appropriate way to frame this obligation?

44. The ACL Committee is unfamiliar with industry practice on recall requests, but notes that the comments made in answer to Question 17 about "reasonable grounds to believe" and the suggestion that it be made clear that a notification from a sending bank should trigger a block on the account at the receiving bank are also applicable here.

Privacy Safeguards for data sharing arrangements

45. Effective scam prevention and disruption will require cooperation and information sharing between regulated entities, and potentially multiple sectors, which will need to be consistent with existing legal and regulatory frameworks.

46. Given the potentially significant volume of personal information that may be exchanged under the SPF, privacy protections should be expressly embedded within the data-sharing regime. Information-sharing should be subject to safeguards including clear requirements of necessity and proportionality, such that personal information is collected, used and disclosed only to the extent reasonably required to prevent, detect, disrupt and respond to scam activity.

47. The Privacy Law Committee of the Law Council's Business Law Section recommends that regulated entities be required to undertake privacy impact assessments in relation to significant data-sharing arrangements established under the SPF. This would assist entities to identify and mitigate privacy risks, ensure that sharing arrangements are appropriately tailored to their objectives, and support accountability in the handling of personal information. Such an approach would help maintain consumer confidence in the operation of the SPF.

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[27] Ibid s 3-11.
[28] Ibid ss 3-11 and 3-12.

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- the Bar Association of Queensland;
- the Queensland Law Society
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