

12 January 2026

Claire McKay
Scams Taskforce
Market Conduct and Digital Division
The Treasury
By email: scampolicy@treasury.gov.au

Dear Ms McKay

The Business Council of Australia (BCA) thanks the Treasury for the opportunity to make a submission on the draft law package and Position Paper on the Scams Prevention Framework (SPF).

The BCA's membership draws from all the sectors covered by the SPF, and we welcome the opportunity to provide feedback based on diverse member views. Multiple sectors of the economy have a role to play in addressing scams which are a significant problem. As scams are a whole-of-economy issue, the BCA supports an ecosystem approach involving all players.

BCA members have been taking many proactive steps to address scams. The SPF and the sector-specific codes under the SPF will build on these efforts but need to be complemented by consumer education, complementary government action,¹ and law enforcement against bad actors. Business is keen to work with the Government on the ongoing development of the SPF and complementary actions.

The BCA makes a number of comments and recommendations to help ensure the SPF delivers on its intended outcomes.

Timing

The SPF is due to take effect from 1 July 2026, which means Internal Dispute Resolution (IDR) processes commence from that day. However, the External Dispute Resolution (EDR) scheme commences on 1 January 2027. This creates a six-month period where consumers are unable to escalate their claims if dissatisfied with an IDR response by a regulated entity. It is not clear how claims which are not resolved by IDR are intended to be handled while awaiting the commencement of the EDR regime. This has the potential to lead to significant customer frustration.

The six-month gap also means there is no formal mechanism to allocate costs between different businesses covered by the SPF. This could potentially lead to increased disputes between regulated entities, may also discourage information between participants, and could create further delays and frustration for customers.

¹ This could include increased identification requirements for the registration of companies.

If this gap remains, BCA members seek further clarity on how unresolved claims should be handled in the interim. A more streamlined approach is warranted for customers to access redress under the SPF and to deliver on the policy intent in a proportionate manner.

Coverage

Instant messaging services are covered by the SPF, which likely includes enterprise messaging services. These services are generally under the control of the relevant enterprise/business, rather than the technology provider, and are not designed to be customer facing. Enterprise services often have much stricter user identity, access and audit controls. As a result, the scam risk would appear to be much lower for enterprise messaging services and so we query whether these services should be included.

BCA members have noted there are arguments for the SPF to be expanded to cover relevant property transactions, superannuation, payment service providers, cryptocurrency providers, remote access software, and dating platforms. We acknowledge that the complexity of the SPF means progressive rollout of the SPF is needed. We trust the concerns about the scope will be addressed in the near future.

It is also unclear why unpaid advertising on search services is included in the Designation Instrument, when the Position Paper indicates the SPF will only apply to paid advertising.

There are also arguments to exclude services that are not available to Australians. In particular, services signed up by a foreigner who uses that service while visiting Australia, where the service is otherwise not available to Australians.

The Position Paper states the meaning of 'scam' is not designed to capture conduct already regulated under anti-money laundering and counter-terrorism financing legislation, and misleading and deceptive conduct relating to trade in goods and services. There is case for these types of conduct to be expressly carved out.

Compensation

The SPF's compensation principles only cover compensation by regulated entities, and do not explicitly take account of customer negligence or fraud. This could potentially lead to consumers obtaining full compensation for a scam, regardless of whether the consumer contributed to the loss in any way. This would not be a desirable outcome.

It is unclear why consumer redress defaults to equal apportionment on all parties regardless of relative fault. However, we acknowledge that it may be less costly for all participants to use simple apportionment for low value scams rather than an approach determining relative fault.

There are sound arguments to place a cap on liability. For example, the cap in the United Kingdom is £85,000 (around \$170,000). A cap at a high level similar to the UK cap would leave almost all scam complaints unaffected, while acknowledging the need for customers to have increased vigilance at higher transaction values.

Dispute resolution processes

During a dispute resolution process, regulated entities should not be required to provide complainants with information that could potentially be used by bad actors to circumvent scam

protections. For example, there should not be a requirement on regulated entities to disclose unnecessary details about their internal scams processes.

The requirement to issue a remedy or statement of compliance within 30 days may be too short, especially for complex complaints. Noting the similar 30 day requirement in financial services can be extended for more complex complaints, BCA suggests flexibility for a longer timeframe should be considered.

Other obligations

The SPF Position Paper contains questions about consumer opt-out provisions, which in the BCA's view could allow some scam vulnerabilities to remain. The need for these provisions is unclear. Opt-out would introduce a new scam vector, and could considerably increase costs on regulated entities.

BCA members have noted that there are some terms or requirements that lack clarity:

- Designated services must verify advertisers hold licences for 'high-risk products', however greater guidance on this term would be beneficial. This could include the level of proof required to advertise 'high-risk products', and what this would mean for different products e.g. healthcare products.
- The authentication requirements for business users and advertisers lack clear protocols.
- It is unclear how a regulated entity would be able to take 'effective steps' to protect its brand from being used in scams, including on other communication platforms, and what steps would be required if another service was uncooperative.

We encourage the Government to provide guidance on how regulated entities can obtain implementation support.

Given the substantial requirements proposed to commence from 1 July 2026, BCA members request the focus of regulators be on facilitating compliance in the initial period of the SPF. This includes providing education and guidance to help entities understand their regulatory obligations.

The requirement for multi-factor authentication (MFA) for login attempts from new devices may not be appropriate in all cases for customers. In particular, it is unclear whether MFA should be mandated for logging in to consumer search.

For the mandatory reporting obligations on regulated entities, BCA requests the SPF regulations ensure this minimises all privacy and security risks. It would also be beneficial for there to be clarity on how to deal with reports that are false positives (an activity that was reported as a scam but later turned out not to be).

Other comments

We also make a number of additional comments:

- The SPF should be consistent with international standards, and avoid conflict with local regulations and recognised standards.

- The SPF should be subject to ongoing monitoring and review, so that it can react to new and evolving scam threats. This ongoing review is important to ensure the extension of the SPF to new domains occurs appropriately. A formal review after the proposed SPF reaches maturity is warranted to assess its effectiveness in achieving the policy intent.

Yours sincerely

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Business Council of Australia