

Greenhouse Update

Emissions Reduction Fund – Next Steps

WHAT YOU NEED TO KNOW

- On 9 May 2014, the Federal Government released the exposure draft legislation for the Emissions Reduction Fund in the form of the *Carbon Credits (Carbon Farming Initiative) Amendment Bill 2014*.
- The *Carbon Credits (Carbon Farming Initiative) Amendment Bill 2014* will implement the purchasing and crediting elements of the Emissions Reduction Fund in accordance with the Federal Government's proposed position under the Emissions Reduction Fund White Paper.
- The Federal Government has indicated that it expects to introduce the *Carbon Credits (Carbon Farming Initiative) Amendment Bill 2014* into Parliament in the Winter Sittings (between 13 May and 17 July), however the legislation is likely to be blocked in the Senate by the Australian Labour Party and the Greens and is unlikely to be passed until the new Senators take their seats on 1 July 2014.
- Submissions on the *Carbon Credits (Carbon Farming Initiative) Amendment Bill 2014* will close on Friday 23 May 2014, and the Emissions Reduction Fund is scheduled to commence on 1 July 2014 (which is unlikely given the political obstacles currently being faced in the Senate).
- The regulations and methodologies for determining if a project is an eligible offsets project have not yet been released in respect of the expanded group of projects under the Emissions Reduction Fund. This material will be critical in understanding the eligibility and economic outcomes for possible projects.

Shortly after the release of the Emissions Reduction Fund White Paper (**White Paper**), the Federal Government (**Government**) has released the exposure draft legislation for the Emissions Reduction Fund (**ERF**) in the form of the *Carbon Credits (Carbon Farming Initiative) Amendment Bill 2014 (Bill)*.

The Bill expands upon the *Carbon Credits (Carbon Farming Initiative) Act 2011 (CFI Act)*, and makes minor consequential amendments to other related Acts, in order to enable crediting of eligible offsets projects across the economy and provide for the Clean Energy Regulator to conduct auctions and purchase eligible carbon credit units.

The Bill does not address the proposed safeguard mechanisms of the ERF referred to in the White Paper. The safeguard mechanisms will be introduced through a separate legislative package to be released in late 2014 - early 2015.

The design of the ERF under the Bill aligns with the Government's proposed position under the White Paper. However, the Bill has failed to close some of the gaps in the design of the ERF which were highlighted by the White Paper, including gaps in respect of the terms and obligations that will be imposed on participants under the standard form contracts.

Additionally, there is a lack of financial certainty around the operation of the ERF with the Government's recent budget committing \$1.4 billion less to the ERF (over the first four years of operation) than the \$2.55 billion committed in the White Paper. Although the Government has indicated that flexibility in the budget allows the Clean Energy Regulator the freedom to commit to abatement purchasing contracts up to \$2.55 billion over the next four years, the budget only outlines a total funding allocation over the next four years of \$1.15 billion.

For a more in depth analysis of the key business risks of the ERF please see our earlier update on the White Paper available [here](#).

What does the Bill do?

The Bill amends the CFI Act, the *National Greenhouse and Energy Reporting Act 2007*, the *Australian National Registry of Emissions Units Act 2011* and the *Clean Energy Regulator Act 2011* (collectively the **Acts**) in order to establish the ERF.

The amendments under the Bill:

- retain the key elements of the Carbon Farming Initiative, established through the CFI Act, and incorporate those elements into the ERF;
- establish the requirements for participation in the ERF and amend the CFI Act in order to expand on the types of eligible offsets projects that may be registered;
- establish the Emissions Reduction Fund Register;
- build on the framework under the CFI Act for assessing and making new estimation methods and streamline that framework into the ERF;
- establish the arrangements for reporting and auditing under the ERF;
- facilitate the purchasing of eligible carbon credit units by the Clean Energy Regulator (by reverse auction, tender or any other process) and introduce:
 - processes for selecting low cost emission reductions including the principles to be applied in the processes; and
 - powers for the Clean Energy Regulator to enter into contracts on behalf of the Government;

Authors

Teresa Scott, Special Counsel
Joy Hooker, Special Counsel
Julia Goncalves, Lawyer

- establish the process by which existing carbon farming projects and methods will transition into the ERF and how and when the new arrangements under the ERF will apply to carbon farming projects;
- establish, and define the role of, the Emissions Reduction Fund Assurance Committee; and
- make other miscellaneous amendments to the Acts in order to streamline the existing legislation and remove unnecessary or outdated provisions and correct errors.

What next?

Submissions on the Bill close on Friday 23 May 2014.

The Government has announced that it intends to introduce the Bill into the Parliament in the Winter Sittings (between 13 May and 17 July).

The Bill is likely to be blocked in the current Senate by the Australian Labor Party and the Greens, and we do not expect that the Bill will be passed until the new Senators take their seats on 1 July 2014. To this end, it is unlikely that the Bill will be passed in time for the ERF to commence on 1 July 2014.

Our experience in dealing with eligible offsets projects under the CFI Act (in its current form) is that the regulations and methodology determinations are critical in determining if a project is an eligible offsets project and, if so, the number of Australian Carbon Credit Units that may be credited for a project.

These materials have not yet been released in respect of the expanded group of projects under the ERF, and will be key to understanding the eligibility and economic outcomes for possible projects.

Contacts



Tony Hill
Partner
Sydney
T: +61 2 9258 6185
E: tony.hill@ashurst.com



Jeff Lynn
Partner
Melbourne
T: +61 3 9679 3267
E: jeff.lynn@ashurst.com



Paul Newman
Partner
Brisbane
T: +61 7 3259 7061
E: paul.newman@ashurst.com



James Bruining
Partner
Perth
T: +61 8 9366 8117
E: james.bruining@ashurst.com



Natsuko Ogawa
Partner
Melbourne
T: +61 3 9679 3833
E: natsuko.ogawa@ashurst.com



Peter Limbers
Partner
Sydney
T: +61 2 9258 6486
E: peter.limbers@ashurst.com



John Briggs
Team Leader
Brisbane
T: +61 7 3259 7102
E: john.briggs@ashurst.com

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