

28 May 2013

Neil Grummitt  
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Australian Prudential Regulation Authority

By email: exemptiondp@apra.gov.au

Dear Neil

### **Banking Act exemptions: RFCs & RCDFs**

Abacus supports APRA's proposed amendments to the RFC exemption order and the proposed withdrawal of the RCDF exemption order.

There is a strong case for these proposals on both consumer protection and competitive neutrality grounds.

Under the proposals, RFCs and RCDFs can continue to operate but they will look a lot less like regulated banking institutions. Alternatively, RFCs and RCDFs that wish to continue to offer 'banking' products and services can apply to be authorised as an ADI.

### **RFCs**

There is no doubt that some RFCs present themselves to consumers in the marketplace as very like a regulated banking institution. This was clearly evident after the collapse of Banksia.

One of the communities most affected by Banksia's failure is Kyabram in regional Victoria. The pastor of Kyabram's Baptist church said of Banksia: "Our banking goes through them."<sup>1</sup>

Investors Chris and Elenora Symmonds said: "We were receiving 5.5 per cent for a six month term deposit (the same rate as online banking). If they had been offering a very high return, we certainly would have been suspicious and not invested with them."<sup>2</sup>

Pensions were paid into 'at call' accounts at Banksia. The then Human Services Minister Kim Carr, said 80 Centrelink customers had received help in the days immediately after Banksia's failure. "First of all, we make sure they get their pension paid into another account," Senator Carr said.<sup>3</sup>

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<sup>1</sup> Herald Sun, 26 Oct 2012

<sup>2</sup> Warnambool Standard, 31 Oct 2012

<sup>3</sup> The Australian, 1 Nov 2012

The Federal Member for Farrer, Sussan Ley, told Parliament that "it was these 'at call deposits' which gave some the impression Banksia was indeed a bank, as it apparently offered an ability to withdraw money at any time."<sup>4</sup>

The Federal Member for Murray, Sharman Stone, said Banksia was an entity that took "deposits" and local people trusted what they called their local bank. "I have to mourn, with my community, the loss of this bank and hope that people get some cash soon, literally to put food on the table," Dr Stone said.<sup>5</sup>

The proposal to restrict RFCs from using the words 'deposit' and 'at-call' and derivatives of those words will greatly assist consumers to distinguish between regulated banking institutions and other entities.

### **RCDFs**

Abacus agrees with APRA's observation that the exemption for RCDFs is historical in nature. The exemption has been the subject of public debate from time to time over the past decade and is now overdue to be removed.

In 2006, the Australian Bankers' Association's chief executive David Bell commented that the community expects that institutions offering banking services are managed prudently to a high standard.

"If any organisation, including a religious organisation, is acting as a bank or providing banking services, then they should be subject to the same regulation as banks in the interests of their customers."<sup>6</sup>

Abacus noted in a 2008 submission to Parliamentary inquiry into disclosure regimes for charities that websites of various church funds promoted the following products and services:

- savings accounts;
- term deposits;
- everyday transactional accounts;
- at-call cash management accounts;
- free cheque books;
- immediate access;
- at-call accounts with "absolutely no bank fees or costs";
- passbook accounts; and
- comprehensive banking facilities.

These well-understood terms and descriptions are obviously typical of the retail banking market. Some funds even described themselves as financial institutions. These funds use retail banking language to describe retail banking products and services but they are entirely outside the retail banking consumer protection and prudential regulatory frameworks.

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<sup>4</sup> House Hansard, 1 Nov 2012

<sup>5</sup> House Hansard 1 Nov 2012

<sup>6</sup> <http://cathnews.acu.edu.au/607/37.html>

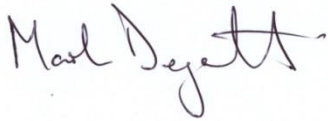
The historical case for the exemption was that the purpose of these entities is primarily charitable rather than commercial. However, ASIC notes in a recent consultation paper, some religious fund-raising entities appear bank-like to investors, for example organisations that:

- a) offer a variety of banking and investment products;
- b) regularly update investors on their product's financial performance without providing corresponding information about their charitable operations;
- c) have websites that appear to be like the websites of commercial operators; or
- d) compare their investment products directly with products issued by commercial fundraisers.<sup>7</sup>

APRA's proposals to require these entities to become authorised as ADIs or to cease presenting themselves as bank-like are reasonable and timely.

Please contact me on [REDACTED] or Luke Lawler on [REDACTED] to discuss any aspect of this submission.

Yours sincerely



**MARK DEGOTARDI**  
**Head of Public Affairs**

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<sup>7</sup> ASIC Consultation Paper 207