AUSTRALIAN CATHOLIC BISHOPS CONFERENCE
General Secretariat

22 May 2013

Mr Neil Grummitt
General Manager, Policy Development
Policy, Research and Statistics
Australian Prudential Regulation Authority
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SYDNEY NSW 2001
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Dear Mr Grummitt,

Consultation on Banking Act exemptions and section 66 guidelines

The Australian Catholic Bishops Conference (ACBC) is a permanent institution of the Catholic Church in Australia and the instrumentality used by the Australian Catholic Bishops to act nationally and address issues of national significance.

The Catholic Church contributes in a wide variety of ways across the spectrum of Australian society. As an integral part of its core mission, the Church seeks to assist people experience the fullness of life. It is concerned with all that impacts on human wellbeing. It comprises many thousands of different entities which have different purposes and modes of governance. It provides significant infra structure for the operation of health, welfare, aged care and educational facilities.

The ACBC appreciates the opportunity to comment on the discussion paper dealing with Banking Act exemptions and section 66 guidelines.

Summary

The ACBC argues that Catholic Development Funds (CDFs) have played a central role in the delivery of the Church's mission for almost 60 years, enabling the provision of schools, hospitals, nursing homes, affordable housing, churches and other vital community infrastructure. These facilities are accessed by the broader Australian population, not only Catholics. APRA is proposing changes to regulation which would restrict the operation of CDFs and threaten their ability to help Church organisations pursue their mission.

CDFs are charitable organisations established and controlled by Catholic Dioceses with a clear mission. They take a prudential approach to carefully managing the funds with which they are entrusted for the purpose of funding capital works and delivering some surplus to offset recurrent expenditure on religious, charitable and educational services which the

Church provides to the community. They are not the types of risk-oriented organizations chasing windfall profits that led to the international turmoil of the Global Financial Crisis. They do not lend to the public but only for Church projects.

The nature of the relationship which CDF's have with their parishioners is special and unique. Members of the Church who place some of their money with CDFs also have a different expectation to bank customers, as they provide their money to assist the mission of the Church.

The current exemption framework has operated effectively and has protected the interests of those who place monies with the CDFs. APRA has not made a compelling case for change and the ACBC does not see that there is any demonstrated need for change having regard to the effective operation of the current exemptions as they apply to CDFs.

CDFs should also be allowed to continue to offer BPAY facilities. There is a strong trend away from cheques and to electronic banking. Any prohibition on CDFs from offering BPAY facilities would have a dramatic impact on their long term viability.

History of Catholic Development Funds

CDFs have a long history of helping the Church establish important social enterprises in the community.

In the 1950's there was increased migration to Australia and Catholic Schools, requiring capital extensions to accommodate growing enrolments were not afforded finance from financial institutions due to a credit squeeze imposed by Government. The establishment of Archdiocesan and Diocesan Development Funds was an initiative undertaken in 1956 to overcome that credit squeeze to enable schools to have access to monies.

A Parish Priest in Melbourne, requiring funds for capital projects, appealed for Catholic families in his Parish to withdraw their savings from their financial institutions and invest their monies in a central Fund under the control of the Archbishop. The pool of funds would enable the Archbishop to lend to Schools within his Archdiocese for capital projects. A commercial approach was taken, with investors receiving interest and Schools paying an interest charge. The Archbishop at the time said that the Fund would "provide an opportunity for Catholics living in older and more settled Parishes to assist in meeting the building needs of the newer areas of Melbourne". This continues today with urban growth and the need for new schools and parishes.

Today there are twenty five Diocesan Development Funds operating in the Dioceses throughout Australia. Each CDF is working for the mission of its respective Diocese, and the mission of the whole Catholic Church, in helping to build today's Church community by providing funds for schools, churches, aged care facilities and hospitals. CDFs assisted in laying the foundations for new catholic schools. Integral to achieving this is the investment support received from Catholic individuals and Church organisations.

The CDFs provide operational and business services for parishes, schools and church organisations as well as investment accounts for individuals across each Diocese. Each CDF is entirely independent and may offer a different range of services. Each CDF has a relationship with a Bank which allows for the provision of the products and services required. The CDFs assist in the accomplishment of the Church's mission by seeking investments, providing capital finance, income generation for the Diocese whilst ensuring prudent financial management.

The pooling of funds from Catholic individuals, schools, parishes and Catholic organisations has saved the Catholic community millions of dollars in interest, fees and charges, making the cost of borrowing more affordable. Without these saving the provision of schools, hospitals, nursing homes, affordable housing, churches and other vital community infrastructure would have been significantly curtailed

The discussion paper refers to "turmoil internationally in banking systems and in non-prudentially regulated financial sectors" as a reason to restrict the operation of CDFs. The turmoil was centred around large financial institutions that had focused on maximising profit through complex financial dealings, forgetting their obligation to the broader community. Most were protected by governments despite their obvious failings. CDFs are community-centred non-profit organisations carefully managing their money for the benefit of both the Catholic and the broader community. They have not lost their ethical focus and should not be penalised for the failures of others. During the global financial crisis the CDFs were able to meet all their obligations. Since they only lend to church entities for church projects there is no risk of default by borrowers.

APRA could perceive that CDFs sound like credit unions or other finance providers and therefore should be subject to the same regulations. CDFs are fundamentally in a different 'market place' to the likes of credit unions and entities such as the Banksia. CDFs are not 'market leaders' in the rates paid to attract funds, nor does the CDF performance affect the interest paid to parishioners. CDFs operate in a totally different environment as evidenced by their margins.

The benefit of CDFs to the Church

The operation of a CDF is the synergy of a number of different elements of a Diocese coming together for the greater good of the Church and wider community.

The work of a Diocese includes religious services, education, health, social welfare, aged care, aboriginal ministry, and various chaplaincies all of which have benefit not just for church attending Catholics but for Catholics and non Catholics who belong to the wider community.

For a country Diocese, by way of example, a CDF allows the people of the Diocesan and parish communities to participate in this social outreach in a tangible beneficial manner. Without the support of lay people 'investing' in their local CDF the range of benefits to a community would be significantly diminished.

The successful operation of a country CDF is dependent on:

1. Diocesan, parish and school investments
2. Lay investments
3. Prudent and conservative management of the portfolio.

The interlinked nature of the work of a parish, Diocese, CDF, and the lay supporter of a CDF is illustrated in this outline of one area of the life of a country Diocese:

Lay support for Aboriginal social welfare

- The lay people support their CDF
- The parishes and Diocese (the treasury function) supports the CDF
- The CDF is able to manage the funds
- A surplus is generated
- A distribution from the surplus is then shared between the Diocese and the individual parishes
- The Diocese meets the cost of public liability insurance for all the parishes bringing cost savings to each community in the Diocese
- This saving, along with their own portion of the distribution, then allows the parish to engage a pastoral worker in an Aboriginal social welfare programme
- The wider community benefits from the effectiveness of the services provided to one of the most marginalised sectors of the community. The paybacks are both in reduction of other costs on society (health, welfare, crime etc) and in the intrinsic value for the individuals who receive the services.

The operations of CDFs draw heavily on the concept of mutual cooperation. CDFs allow each person in a faith community to support the wider community according to their individual circumstances. The contribution of a person who has a small account with $500 is as noteworthy as one with $5,000. For the person making the decision to support their CDF it is a decision about church and community rather than about profit or a commercial transaction. The required disclosures the CDFs make in their advertising and offer documents, as required by the current exemptions, reflect this and is fully supported by the CDFs. The CDFs contend that parishioners supporting CDF's are not confused by the type of investment offered.

This highlights an absolute distinction between CDFs and other manifestations of 'banking' relationships. Lay people are supporting their parish, faith and diocesan community on non-commercial grounds. It is not a banking relationship. The contributions made by the parishioners are either used to finance church capital works or invested in the banking system with negligible risk.

Church treasuries

The ACBC acknowledges and appreciates that 'APRA considers that it is appropriate that Religious Charitable Development Funds (RCDFs) operating as de facto corporate treasuries for their affiliates… continue to receive a Banking Act exemption.' If the status quo cannot be maintained then the ACBC believes APRA needs to carefully reconsider the conditions under which a common class exemption will be applied to RCDF corporate treasuries as from 28 June 2014.

The ACBC is concerned that the *Corporations Act 2001* definition of a retail investor will lead to a number of affiliates of the Church being excluded from being able to continue to invest funds with their respective CDF. By way of example many of the Clergy and church employees have accounts with their CDF and would be disadvantaged if they were no longer able to have accounts with their CDF.

The ACBC believes that the existing *Banking Act* exemption has a reasonable definition of what constitutes a corporate treasury for a RCDF (see Condition 4 (a) in Schedule 2). We therefore request that the proposed exemption focus on defining the corporate treasury of RCDFs rather than having exclusions based on the definitions in the *Corporations Act*.

The current exemption permits RCDFs to offer cheque account facilities to certain entities and persons. These are provided through the CDFs' bankers.

The proposal to prevent RCDFs from offering BPAY facilities to the same entities and persons makes little sense from a prudential perspective as BPAY is clearly a more secure payment mechanism than a cheque. The ACBC cannot see that by allowing RCDFs to offer BPAY facilities would in any way create an impression that a RCDF was an ADI.

According to the Australian Payments Clearing Association Limited (APCA) cheques are in dramatic decline and are expected to be a rarity by 2018. CDFs have been acting prudently for a number of years by encouraging their clients to limit their use of cheques in favour of BPAY. They have also been mindful of the steady decline of cheques and therefore have seen BPAY as the appropriate substitute for cheques. Any prohibition on CDFs from offering BPAY facilities would have a dramatic impact on their long term viability.

The ACBC believes that the proposed exclusion of the use of the word "deposit" or its derivatives, whilst not ideal, will not have a real impact on the activities of CDFs and it concedes this restriction.

Conclusion

The ACBC argues that there should be no change to the current exemption. There is no evidence that the current operation of CDFs is a risk to "mum and dad" investors. CDFs are prudently managed funds set up to help further the mission of the Church by developing social enterprises like churches and schools, not to make profits for shareholders.

CDFs should also be allowed to continue to offer BPAY facilities. There is a strong trend away from cheques and to electronic banking. Any prohibition on CDFs from offering BPAY facilities would have a dramatic impact on their long term viability.

I would welcome the opportunity to provide further information as may be required.

Yours faithfully

Rev Brian Lucas
General Secretary