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31 May 2012

Neil Grummitt
General Manager, Policy Development
Policy, Research and Statistics
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001

Dear Neil

Discussion Paper and Draft Prudential Standards - Implementing BASEL III Capital Reforms in Australia

I refer to APRA's Discussion Paper dated 30 March 2012 entitled 'Response to Submission' and the draft Prudential Standards released with it. In my submission on APRA's original Discussion Paper dated 8 September 2011, I had provided a comment in relation to the impact of the proposed regulatory standards on dividend re-investment schemes operated by ADIs.

That comment and APRA's response is set out at page 16 of the 30 March 2012 Discussion Paper.

APRA's response indicates that there may have been a misunderstanding in relation to my original submission. The response says:

> No allowance is necessary for dividend reinvestment plans, which are no longer relevant for determining Common Equity Tier 1 Capital.

My submission is that on the current wording of the draft APS 111 (Attachment B, paragraph 1(k)) an ADI will in fact be required to deduct from its Common Equity Tier 1 Capital any share which it has issued pursuant to a dividend reinvestment plan because the ADI will have '***directly ... funded the purchase of the instrument***' to use the language of the Prudential Standard.

I assume that this is not the intended result as there would not seem to be a good policy reason for it.

In my original submission, I had noted that the 6 September paper had properly reflected the nature of dividend reinvestment plans in s4 of that paper (paragraph 4.1(a)) dealing with the proposed Capital Conservation Buffer and those elements that would be subject to distribution restrictions.

Our Ref [redacted]

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I note that the express confirmation in the original paper that:

> ... payments that do not result in a depletion of Common Equity Tier 1, which may for example include certain scrip dividends and proceeds of any dividend reinvestment are not considered distributions ...

does not seem to have been reflected in draft APS 110 at paragraph 27. That omission would not be a matter of concern if APS 111 is amended to make it clear that dividend reinvestment scheme share issues do not have to be deducted from Common Equity Tier 1 capital.

Yours sincerely

Ian Wallace
Partner
Allens
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