

5 May 2016

Mr Pat Brennan  
General Manager, Policy Development  
Australian Prudential Regulation Authority  
GPO Box 9836  
SYDNEY NSW 2001

Dear Sir,

**Submission RE APRA Proposals for New RCDF Exemption Order**

With reference to the latest proposals for a new RCDF Exemption Order as outlined in the APRA document “Response to Submissions – Religious Charitable Development Funds” dated 30 March 2016 and the further consultation meeting held on 14 April 2016 at your offices, we make the following submission in relation to the proposed definition of “Affiliate” as set out in Appendix 1, Clause 16.

As mentioned at the consultation meeting, there are other organisations who may carry out similar religious and charitable objectives of a fund, but who may not be associated or affiliated in terms of any formal relationship, but nevertheless have common or similar religious and charitable objectives. Examples of such organisations are interdenominational mission or charitable organisations, non-denominational mission or charitable organisations or churches which are either non-denominational, or aligned, on an ethnic basis, who may not be associated with any specific denomination in Australia. Also there is an increasing ‘ecumenical effort’ to work more collaboratively with other denominational groupings, where for example smaller denominational funds may not have sufficient resources and may require assistance from larger Church funds to assist their smaller churches. Many of these will in any event be non retail investors, however some smaller organisations may not meet the threshold tests to be treated as wholesale investors.

We are concerned that these smaller organisations or churches will be precluded from the benefit of some of our services, particularly as they may have fewer options, and may in fact have greater needs, than some larger organisations or churches. In particular we offer loan offset arrangements, which is an at call account, but which provides a substantial saving and benefit where a smaller church or organisation may require loan funding of their church or

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ministry purpose to further their religious charitable objectives. This significantly reduces the net interest cost and the affordability of finance for these churches and organisations. Under the present proposals these smaller organisations or churches will be effectively discriminated against and precluded from some services, such as loan offset accounts, that may be offered to larger organisations.

Further the definition of 'affiliate', as currently drafted, does very much reflect a top down concept of the church denominational group, which does not reflect the nature of Baptist Associations where churches group together and are associated but are not controlled by any central body. Even Baptist denominational organisations generally operate independently with independent governance boards and under separate and differing State based structures. As not for profit organisations there can be no controlling shareholder. Thus trying to define an 'affiliate' on a structural or specific relationship basis is difficult as church groupings or specific trust funds are structured in many different ways.

We note that in discussions with ASIC that there was a view expressed that an Associate could or might be defined according to whether each organisation had a similar or common religious and charitable objective, such as for example 'the advancement of religion'. We submit that the objectives of APRA's proposals will be maintained and achieved if a purpose test was adopted or included as a basis of defining an 'affiliate' as it would require a common or similar objective of 'the advancement of religion' and would only apply to an incorporated body, or a trust with a corporate trustee, and not to individual persons. In many respects each fund would self regulate this aspect, as all funds exist to pursue certain religious charitable objectives. As such, it is unlikely they would seek to deal with organisations that are not compatible with their own religious charitable objectives. Clearly that would be inconsistent with their key purpose and reason for being.

A suggested addition to the proposed definition of 'affiliate' is set out in the Appendix to this letter for your consideration.

We thank you for the opportunity to provide this feedback and trust it is helpful in formulating an outcome that meets both the objectives of APRA and also of the Religious Charitable Development Funds.

If you require any further information we would be happy to respond to any request. I may be contacted on [REDACTED]

Yours faithfully,



David Slinn  
CEO

## Appendix

16. In this Schedule:

**affiliate** means:

INSERT new paragraph (aa) before the current proposed paragraph (a)

- (aa) A body corporate, whether acting in their own capacity, or as a trustee, who
  - (i) is recognised at law as being formed for religious and charitable purposes stated in a trust deed, ordinance or other foundation document governing the body corporate, or the trust of which they are trustee (their Constitution);
  - (ii) is limited to the purposes stated in their Constitution;
  - (iii) is operated as not-for-profit, and
  - (iv) has a religious charitable purpose that is common to, compatible with or advances the religious charitable objectives of the Fund, such as, but not limited to, the advancement of religion; or

(Note: it is assumed paragraphs would be renumbered)