



Abacus
Australian Mutuals

Association of Building Societies and Credit Unions

21 December 2007

Ms Jennifer O'Donnell
Executive Director, Compliance
Australian Securities & Investments Commission
GPO Box 9827
SYDNEY NSW 2001

cc: Mr Tony D'Aloisio, Chairman
policy.submissions@asic.gov.au;

Dear Ms O'Donnell

Re: RG 156 DEBENTURE ADVERTISING AND USE OF "BANK DEPOSIT"

I write to object to ASIC's use of the term "bank deposits" in RG 156 instead of "bank, building society and credit union deposits".

On behalf of credit unions and mutual building societies, *Abacus – Australian Mutuals* welcomes publication of RG 156 but we are concerned that ASIC fails to grasp the importance of promoting community understanding about Authorised Deposit-taking Institutions (ADIs) in the substantive text of the Regulatory Guide and in the advertising standards to be imposed on debenture issuers.

I note that ASIC includes a reference to building societies and credit unions in the definition section of the Regulatory Guide but in our view this is inadequate. We strongly submit that advertising noting that the products are not akin to ADI deposits must clearly state this and not leave some types of ADIs out of the requirements.

Referring only to "bank deposits" throughout the body of the document and in the proposed advertising requirements misleads readers and reinforces an impression that bank deposits are in a different risk category than building society and credit union deposits.

It also, in our view, may unnecessarily expose credit union and building society members. For example reduced consumer protection outcomes could arise where credit unions and mutual building society members perceive that their deposits are somehow on par with debenture investments in terms of stability and security.

It is particularly disappointing that ASIC, as one of the two key financial sector regulators, is failing to promote community understanding that banks, building societies and credit unions are all ADIs under the *Banking Act 1959* and there is no regulatory or prudential distinction between deposits in different kinds of ADIs.

It is also most disappointing that ASIC completely rejected proposals on this very point made in our submission on the draft Regulatory Guide.

Such a position is at odds with major legislative developments over the past decade, which have seen all States/Territories and the Australian Government introduce legislative

amendments deleting the word "bank" and replacing it with ADI. This change was undertaken for a variety of reasons, not the least of which was the recognition of their equal status under APRA, but also to permit deposits to be lodged with credit unions and building societies, where they had previously been restricted to banks only.

An important consumer protection document such as RG 156 should use language that is contemporary and reflecting the current legislative framework. It should also apply consistent standards in its warnings that reflect the safety of deposits with ADIs and remove opportunities for misleading advertising that creates false impressions of investment risk. There is no basis for any distinction between bank deposits and those with credit unions and building societies as they are supervised in the same manner by APRA and subject to the same prudential standards.

In our view financial sector regulators have a responsibility to take opportunities to clearly inform the public about this important information, rather than perpetuating an outdated impression that "bank deposits" are somehow distinguished in a regulatory sense from building society and credit union deposits.

Now more than ever consumers need to be informed about the fundamental distinction between ADI deposits and other investment options, such as debentures, property trusts and asset backed securities, including AAA-rated securities.

Referring to "bank deposits" as shorthand for "bank, building society and credit union deposits" or "ADI deposits" poses a risk of misleading consumers that building society and credit union deposits have a different risk status from bank deposits, or more alarmingly that debenture investments have an equivalent risk profile to their prudentially regulated savings deposits with their ADI.

We do not think this is a sound approach for a financial sector regulator. It does not assist in promoting community understanding of important factual information or in promoting competition and choice in the marketplace. It risks poor consumer and investor protection outcomes.

ASIC is therefore urgently requested to review this wording, which Abacus considers unacceptable, and to take steps to issue a reworded version at the earliest opportunity. Abacus would be pleased to discuss any aspect of this matter and provide any assistance necessary with appropriate rewording.

Please do not hesitate to contact me on (02) 8299 9050 or lpetschler@abacus.org.au with any inquiries or comments on this matter.

Yours sincerely



LOUISE PETSCHLER
Head of Public Affairs