



Abacus
Australian Mutuals

Association of Building Societies and Credit Unions

26 September 2008

Mr John Hawkins
Committee Secretary
Senate Economics Committee
Parliament House
Canberra ACT 2600
By e-mail: economics.sen@aph.gov.au

Dear Mr Hawkins,

Abacus – Australian Mutuals appreciates the opportunity to contribute to the Committee's inquiry into disclosure regimes for charities and not-for-profit organisations.

Abacus is the industry association for credit unions, mutual building societies and friendly societies. We have 170 member institutions with total assets of \$70 billion and more than 6 million members. Credit unions and building societies rank second only to the Commonwealth Bank in their share of the Australian household deposits market. (See attachment for more detail.)

This submission is focused on the potential consumer risk and associated competitive neutrality issue posed by the retail banking activities of religious charitable development funds.

These entities engage in deposit taking and other business activities that are promoted in terms identical to those used by highly-regulated Authorised Deposit-taking Institutions (ADIs).

However, unlike ADIs, these entities are not subject to prudential regulatory supervision by APRA or consumer protection licensing by ASIC.

Despite the fact that they manage billions of dollars, and engage in ADI-like activities, these entities are virtually unregulated.

On consumer protection grounds alone, Abacus believes the policy case for the regulatory exemptions provided to these entities must be examined.

Regulation of ADIs

Credit unions, building societies and banks are ADIs, licensed by APRA under the Commonwealth *Banking Act 1959*.

All ADIs, from the largest bank to the smallest credit union, are subject to the same prudential regulatory regime and comply with a range of strict prudential standards covering (but not limited to):

- Capital;
- Liquidity;

- Risk management;
- Credit quality and provisioning;
- Governance; and
- Business continuity.

APRA has a prudential standard setting out minimum requirements for ADIs in determining the fitness and propriety of individuals to hold positions of responsibility. "Persons who are responsible for the management and oversight of an authorised deposit-taking institution need to have appropriate skills, experience and knowledge and act with honest and integrity," the prudential standard says.

APRA's role is to promote prudential behaviour by ADIs through a robust framework of legislation, prudential standards and continuous supervision, which aims to ensure that risk-taking is conducted within reasonable bounds and that risks are clearly identified and well managed.

Religious charitable development funds are entirely outside this framework.

ADIs hold Australian Financial Services Licences from ASIC and are subject to the licensing, conduct and disclosure requirements of the *Corporations Act 2001*.

ADIs are also:

- reporting entities under the *Anti -Money Laundering and Counter-Terrorism Financing Act 2006*;
- signatories to the *Electronic Funds Transfer Code of Conduct* and other consumer protection codes; and
- subject to the Uniform Consumer Credit Code

In summary, ADIs are heavily regulated to protect depositors and borrowers and to promote a stable financial system.

Religious charitable development funds

Religious charitable development funds have exemptions from licensing and disclosure provisions under the *Corporations Act 2001* and from authorisation under the *Banking Act 1959*.

A total of 55 religious charitable funds are listed by APRA as subject to a class exemption order that exempts them from the requirement to be authorised under the *Banking Act 1959*.

"It has been a long standing practice of APRA to grant exemption to such funds (also known as 'church funds')," APRA said in a July 2006 statement announcing standardisation of the exemption.

"These funds are usually established to raise moneys from the public in order to make loans that further the charitable purposes of the fund, an activity that meets the definition of 'banking business' under the *Banking Act 1959*."

Exemption is subject to conditions:

- funds are precluded from offering cheque facilities (except in limited circumstances) or EFTPOS or ATM access;
- disclosure that funds are not subject to APRA's prudential oversight; and
- advertising limited to printed material produced under the auspices of the sponsoring religious institution.

APRA's intention was to more clearly demarcate the activities of religious charitable development funds from ADIs offering retail banking services.

Products and services

Internet sites of church funds promote 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";
- term investments;
- savings accounts at call;
- pensioner deeming accounts at call;
- interest deposits;
- online internet accounts;
- BPay Biller;
- passbook accounts;
- regular automatic payments;
- no account keeping fees or charges;
- guarantees a great rate of return;
- comprehensive banking facilities;
- unlimited withdrawals by electronic transfer;
- everyday at-call investments; and
- fixed term investments.¹

These well-understood terms and descriptions are obviously typical of the retail banking market.

Some funds even describe themselves as financial institutions. For example, one fund says it is a "a sound, well-managed financial institution" with a "banking system and products" that provide "secure, practical solutions to individuals."

Another fund says: "Why go to a bank when [we] can provide you with term deposit rates like these?"

¹ Abacus can provide a sample list of church fund websites.

Another fund says: "We offer comprehensive banking facilities and provide transactional, lending and investment solutions to individuals."

These funds use retail banking language to describe retail banking products and services but they are outside the retail banking consumer protection and prudential regulatory frameworks.

As an indication of the scale of these church funds, one fund discloses that it now manages in excess of \$480 million and another says "currently there are over 40,000 depositors with over \$400 million in [our] deposit accounts."

The required disclosure that the funds are not regulated by APRA is sometimes hard to find on websites and is rarely displayed prominently. There is a real question about whether common disclosure practice in the church fund sector could be considered effective disclosure to consumers, particularly given the use of retail banking terminology.

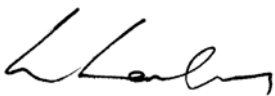
Recommendations

Abacus recommends that ASIC and APRA should examine the church funds sector to determine:

- whether the various exemptions from licensing, disclosure and authorisation requirements are justified;
- whether the sector is appropriately meeting the conditions of various exemptions from licensing, disclosure and authorisation;
- whether disclosure practices are effective;
- whether consumers understand that the sector is unregulated; and
- whether the sector should be prevented from using terms and language describing products and services of ADIs.

Please do not hesitate to contact me on 02 6232 6666 if you want to discuss any aspect of this submission.

Yours sincerely,



LUKE LAWLER
Senior Adviser – Policy & Public Affairs

Australian Credit Unions & Mutual Building Societies

FACTS AND FIGURES AT A GLANCE

SIZE	
Numbers	<ul style="list-style-type: none"> > 128 credit unions as at September 2008 > 9 mutual building societies as at September 2008
Consolidation	<ul style="list-style-type: none"> > Ongoing consolidation but assets growing consistently, contributing to strength and enhancing capacity to provide full range of banking services to the personal sector
Assets and Growth	<ul style="list-style-type: none"> > Credit unions' on-balance sheet assets reached \$42bn in March 2008, growing by 10% annually while mutual building societies' on-balance sheet assets amounted to \$17bn in the same period. > Collectively, mutual ADIs rank behind the five major banks and Suncorp-Metway.
Market Share	<ul style="list-style-type: none"> > Hold approximately 5.5% of the new home loan market and 12% of household deposits
Population Penetration	<ul style="list-style-type: none"> > Service approximately 4.6 million members - close to 1 in 4 of the total population > Population penetration (members as a proportion of the total population) highest in SA (36%), Tasmania (36%), and NSW (28%)
STRENGTH	
Customer Satisfaction	<ul style="list-style-type: none"> > 87.1% of credit unions' and 85.6% of building societies members were satisfied in July 2008. > Consistently out-perform banks (majors 69.6% and total banks 72.6% in July 2008)
Competitive Advantages	<ul style="list-style-type: none"> > Mutual structure means no tension between servicing customers and external shareholders – customers (members) are the owners > Extremely strong member goodwill and trust > Better placed than most to satisfy key needs of consumers, that is: <ul style="list-style-type: none"> - moral leadership - sense of community / belonging - honesty and integrity - guidance - simplicity > Niche marketers - servicing both geographical and industry communities > Competitively priced > Close to half of all members outside capital cities, approx. one quarter of which are in secondary cities and three quarters in rural areas
PRODUCTS	
Product Range	<ul style="list-style-type: none"> > Majority offer a full range of personal banking services; smaller ones provide more limited facilities
Product Usage	<ul style="list-style-type: none"> > More members now using their CU as their main financial institution – 14.2% had six or more products with their CU in June 2001; by June 2007 this was up to 18.7% (i.e., a 30% increase in 6 years)

Australian Credit Unions & Mutual Building Societies

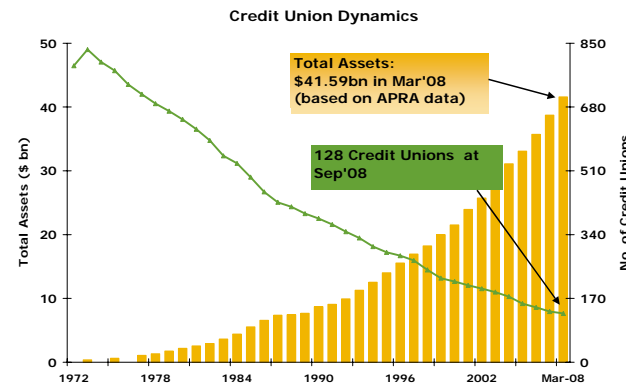
Mutual ADIs

There are now 128 credit unions and 9 mutual building societies in Australia – ranging in size from the very small through to the largest credit union with over \$6.5bn in assets.

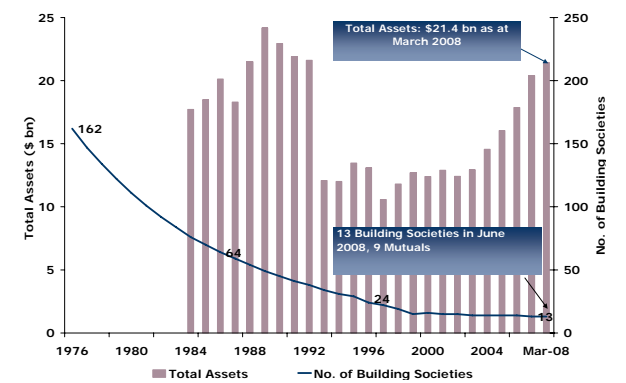
Credit unions and mutual building societies are customer owned – operating under the mutual principles of one member one vote, an equal share in the say of the credit union, and with the purpose of member and community benefit at the forefront of their operations.

Consolidation and Growth

Our industry has undergone significant consolidation over the past 30 years – driven by market pressures, regulatory costs and other demands leading to a search for greater scale.



(Source: APRA, Abacus)

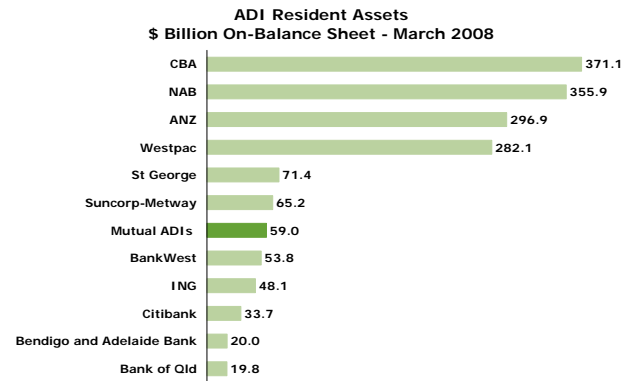


(Source: APRA)

Notwithstanding these pressures, the industry has continued to grow and prosper with total assets under management increasing to around \$59 billion collectively at March 2008.

Market Share

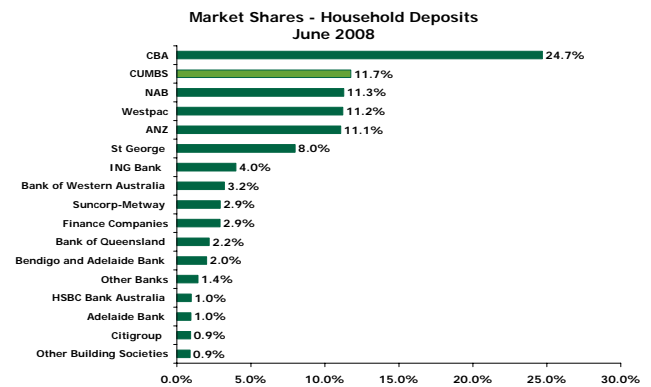
Collectively, credit unions and mutual building societies sit behind the five major banks and Suncorp-Metway in terms of total on-balance sheet assets.



(Source: APRA)

Mutual ADIs hold approximately 5.5% of the new home loan market.

As a group, credit unions and mutual building societies are the second largest deposit gathering force after CBA, reaching almost 12.0% market share.



(Source: APRA, RBA)

Products and Services

Majority of the credit unions and mutual building societies offer a full range of personal banking services with smaller ones providing more limited facilities.

Despite being smaller players, on average, credit unions and mutual building societies charge less than the major banks in interest rates as shown in the following table.

Australian Credit Unions & Mutual Building Societies

Standard Variable Home Loan Rates by Lenders

01-Sep-08	Average
Big Five	9.62%
Credit Unions	9.10%
Building Societies	9.21%

(Source: Cannex)

Similarly, many of them offer attractive deposit rates. The following tables show the top 10 rankings by Cannex on saving investment accounts and 90-day term deposits as 4 September 2008.

Savings Investment Accounts

Rank	Company	Account Name	Top Nominal Interest %
1	BankWest	Regular Saver	10.00
2	Greater Building Society	Bonus Saver Account	8.50
3	Hunter United Credit Un	XLR8 Savings Account	8.00
3	Newcastle Permanent	Education Savings Acc	8.00
5	Suncorp Direct	FlexiRate 12mth Notice	7.80
6	Westpac	Reward Saver	7.40
7	StGeorge Qld/Vic/Tas/WA	Power Saver Account	6.70
8	nab	Smart Reward Saver	6.61
9	Lifeplan Funds Managemnt	Bonus Cash Account S30	6.50
10	Dnister Ukrainian Credit	Bonus Saver	6.25

(Source: Cannex, 4 September 2008)

Term Deposits

Term Deposits		
90-day, \$10,000		
Rank	Company	Nominal Interest %
1	NSW Teachers CU	8.50
2	Australian Defence CU	8.45
3	Gateway Credit Union	8.40
4	Sandhurst Trustees	8.40
5	Elders ERBOnline	8.30
6	myState Financial	8.25
6	United Credit Union	8.25
7	Elders Rural Bank	8.20
7	Qld Professional CU	8.20
7	Railways Credit Union	8.20
8	ECU Australia	8.15
9	Select Credit Union	8.10

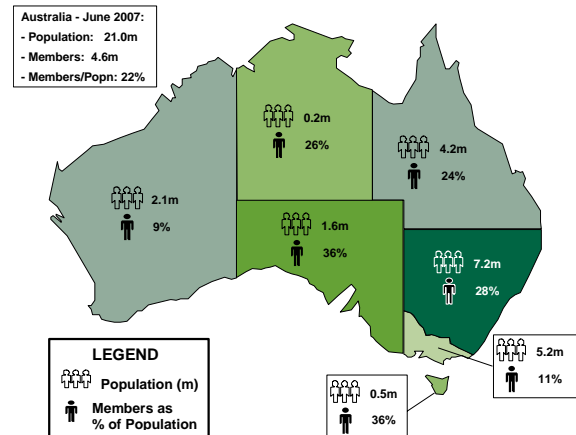
(Source: Cannex, 4 September 2008)

Both rankings revealed that credit unions and mutual building societies are well positioned in this space.

In July 2008, 87.1% of credit unions' and 85.6% of building societies members were satisfied, consistently out-perform banks (majors 70.2% and total banks 73.1% in May 2008).

Regional Representation

As at June 2007, Australia's total population was 21 million, of which 4.6 million (21%) were credit union or mutual building society members.



(Source: MMD)

Population penetration (members as a proportion of the total population) highest in SA (36%), Tasmania (36%), and NSW (28%)