



Abacus
Australian Mutuals

Association of Building Societies and Credit Unions

31 July 2009

The General Manager
Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: financialsupplies@treasury.gov.au

Dear Sir,

Comments on Consultation paper on the review of the financial supply provisions

Thank you for the opportunity to participate in this review.

Abacus – Australian Mutuals is the industry body for credit unions, mutual building societies, and friendly societies.

There are 117 credit unions and 9 mutual building societies, with total assets of more than \$65 billion, serving 4.6 million Australians. Credit unions and mutual building societies are Authorised Deposit-taking Institutions (ADIs) and hold around 12 per cent of the household deposits market and around 7 per cent of the new home loan market. (See Fact Sheet for more detail on mutual ADI sector.)

Friendly societies serve 1.6 million Australians and have traditionally been involved in encouraging and supporting self-help within the community. A significant number of friendly societies are registered under the Life Insurance Act 1995 and they offer life insurance business as a means of discretionary medium to long-term savings.

Abacus makes the following key recommendations in this submission:

1. Retain the existing financial supply provisions;

Abacus supports retention of the existing financial supply provisions because, while it is not a perfect model, the framework was developed following extensive consultation and it is a model with which our members have become familiar. At a time when businesses are subject to significant financial pressures, there does not appear to be a strong case to introduce changes that would invariably involve administrative, training, compliance and systems costs.

2. Adjust the list of Reduced Credit Acquisitions to reflect changes in the financial sector regulatory environment and developments in the mutual ADI sector;

Abacus is owned by mutual ADIs and provides a wide range of services, including advocacy, public affairs representation, government relations, media relations, regulatory compliance advice, research and market intelligence, and support to fight fraud and financial crime.

A large bank can self-supply these services and reduce its GST tax burden and therefore can gain a competitive advantage on smaller competitors whose business models and industry structures have always involved significant outsourcing, before and since the introduction of the GST.

Credit unions and building societies also obtain commercial services, such as treasury management and payments system access, from a range of industry-owned service providers. Again, a large bank can self supply these services.

The Explanatory Statement for the RITC regulations says the benefits of the RITC approach include: *"reduced bias to insource; lower compliance costs for smaller entities; greater legislative certainty; and a better competitive position for domestic service providers."*

Abacus submits that RITC item 16 "Credit Union Services" needs to be amended and brought up to date with developments in the mutual ADI sector to restore competitive neutrality between banks and mutual ADIs.

3. Retain the existing rate of the Reduced Input Tax Credit; and

No case has been put forward in the Consultation Paper, and we do not believe there is a case to reduce the RITC rate from 75 per cent. Any reduction in the RITC rate would amount to a tax increase on the financial sector and its customers and would be most heavily felt by those participants in the financial sector who do the most outsourcing, ie. smaller participants who have no choice whether or not to outsource.

4. Retain a single RITC rate.

Abacus members have expressed a desire to maintain a single rate for ease of administration. Whilst it may be possible to create different rates for different types of acquisitions or sectors, this may instead create unintended tax planning opportunities for organisations that are better resourced than Abacus members to assess the differences closely.

For further detail regarding our key recommendations and other points, please refer to the **attached** submission that has been prepared with the assistance of BDO Kendalls.

Thank you again for the opportunity to comment on the review of the financial supply provisions. Abacus welcomes the opportunity to discuss the submission in further detail with Treasury. Should the opportunity arise, please do not hesitate to contact me on 02 6232 6666 or email llawler@abacus.org.au.

Yours sincerely,



LUKE LAWLER
Acting Head of Public Affairs

1. Purpose

- 1.1 The purpose of this submission is for Abacus – Australian Mutuals (“**Abacus**”) to provide comments on the Treasury’s consultation paper on the review of the financial supply provisions issued on Tuesday 12 May 2009 (content ID 1529) (“**Consultation Paper**”).
- 1.2 In preparing this submission on behalf of the members, Abacus consulted with members and their comments are incorporated in this letter.
- 1.3 We understand that the Consultation Paper does not extend to the following areas:
 - (a) Division 84, to reverse charge the GST on some supplies not connected with Australia;
 - (b) Division 129 relating to change in creditable purpose;
 - (c) Division 189 relating to the financial acquisitions threshold;
 - (d) Fringe benefits tax; nor
 - (e) Apportionment methods.
- 1.4 Consequently, we have not provided comments in relation to any of the above areas. We would welcome the opportunity to provide comments on the excluded areas should consultation be required.
- 1.5 We understand that the submissions are due by Friday 31 July 2009. Following this submission, we would welcome the opportunity to discuss our comments in person with you and to explore some of our comments in more detail.

2. Representation

- 2.1 Abacus is the industry body for the mutual banking sector, representing 117 credit unions and 9 mutual building societies.
- 2.2 Abacus champions the interests of its members and supports the growth and competitiveness of mutuals in the financial services market.
- 2.3 Abacus is owned by its member organisations that were represented in previous years by the Credit Union Industry Association (CUIA, a division of Cuscal Limited), the Australian Association of Permanent Building Societies (AAPBS) and the National Credit Union Association (NCUA).
- 2.4 Members of the Australian Friendly Societies Association access their industry association services through Abacus.
- 2.5 As a result, Abacus now brings together the shared values and professional approach of credit unions, mutual building societies and friendly societies to deliver a strong and clear single voice for Australian mutuals.
- 2.6 Abacus members hold approximately 7% of the new home loan market and 12% of household deposits.
- 2.7 Importantly, **Abacus members serve over 4.6 million customers, or over 20% of the total population**, with 60 Abacus members headquartered outside capital cities in regional centres and country towns.

3. Overview - what is the motivation for simplification?

- 3.1 We understand that the consultation has arisen from the government's adoption of recommendation 23 made by the Board of Taxation following its review of the Legal framework for the Administration of the Goods and Services Tax.
- 3.2 Specifically, the Board of Taxation recommended that *"The Government should undertake a review of the financial supplies provisions with a view to reducing their complexity and introducing more principled rules, while maintaining the existing policy"*.¹
- 3.3 Notwithstanding the recommendation, the Consultation Paper refers to the submission from the Institute of Chartered Accountants in Australia and its comments at page 19 that the financial supplies provisions ought to be redrafted. We understand that the preference of the Institute of Chartered Accountants in Australia is to re-introduce the repealed section 40-5 of the *A New Tax System (Goods and Services Tax) Act 1999 ("GST Act")*.
- 3.4 Other submissions from the following organisations did not raise the issue of redrafting the financial supply provisions²:
- Australian Bankers' Association
 - Australian Finance Conference
 - Australian Financial Markets Association
 - Australian Securitisation Forum
 - Challenger Financial Group
 - Commonwealth Bank of Australia.
- 3.5 The organisations listed under paragraph 3.4 of this letter are organisations that either operate or represent taxpayers that are most impacted by the financial supplies provisions on a day to day basis.
- 3.6 The view of the financial services industry is perhaps further emphasised by a submission to the Australian Financial Centre Forum by the Finance Industry Council of Australia³ ("**FICA**") in March 2009, in which FICA continued to recommend GST-free treatment of financial supplies.
- 3.7 On the basis that the review seeks to achieve the existing policy outcome *"more efficiently and with reduced compliance costs"*, we submit that the outcome will not be achieved by introducing more principled rules for the following reasons:
- (a) *Existing rules are already established*: It has been approximately 9 years since the introduction of GST. Throughout this time, the Australian Taxation Office ("**ATO**") and the taxpayers have worked in conjunction (or opposition) to debate and develop clarity for the current framework. The redevelopment of financial supplies provisions would simply introduce a new level of uncertainty and cause the law development to start from "square 1". This seems unnecessary especially when the underlying policy is to remain the same.
- (b) *The ATO would be given more discretionary power*: Should the financial supplies provisions be simplified (for example, the lists are removed from the *A New Tax System (Goods and Services Tax) Regulations 1999 ("GST Regulations")*), the

¹ Board of Taxation, *Review of the Legal Framework for the Administration of the Goods and Services Tax*, December 2008, recommendation no. 23.

² In addition, we also did not notice the issues being raised during the consultation meetings.

³ FICA's membership: ABA, Abacus, AFC, IFSA, FPA, ICA, AFMA.

government may be seemingly providing the Commissioner of Taxation with *de facto* law making power. This is likely to impose additional burden on the ATO to achieve equity and consistency with its administration of the law.⁴

- (c) *No overseas precedent*: We are not aware of any major economies that have chosen to change the VAT/GST rules to a principle-based approach *after* implementation *without* changing the underlying policy. Recent examples can be drawn from New Zealand, where a decision was made to treat business-to-business supplies of financial services as zero-rated from 1 January 2005.⁵ This represents a change in both policy *and* legislation. Another change that is due to occur is the place of supply of services rules within member states of the European Union from 1 January 2010. This, again, represents a change to both policy *and* legislation. Without a change in policy, it is difficult to see the reasons for re-drafting the legislation simply for “clarity”.
- 3.8 In accordance with the above, we are unable to see any convincing reasoning that has been put forward to date for the existing financial supplies provisions to be replaced with principle-based rules that maintain the existing policy. It would seem to be an exercise that is going to cause significant uncertainty, substantial transitional costs for taxpayers, and provide the taxpayers with effectively the same result.
- 3.9 Many of our members are based in regional, rural and remote areas. In these areas, it can be difficult to attract talented in-house resources. Without in-house resources, and the absence of readily available external assistance, it is challenging for these organisations to prepare to comply with complex new regulatory requirements and regulatory change. Should principled rules be introduced, it will be a significant challenge for our members to keep pace with the new legislation. Given significant one-off costs had already been incurred when GST was introduced, this seems like an unnecessary exercise when the government is not intending to change the policy.
- 3.10 The Treasury’s view that taxpayers can apply for private rulings should there be any area of uncertainty is possibly true for the larger financial institutions. However, this grossly overestimates the resources of some of our member organisations. In certain regional areas of Australia, one would be fortunate to find the appropriate resources to perform day-to-day activities. The time, effort and knowledge involved in preparing a private ruling application are often beyond many of our members. Without the resources, they will not be in a position to seek clarity on the new rules.
- 3.11 **Accordingly, we strongly recommend that the government retain the existing financial supply provisions.** Whilst it is not a perfect model, the framework was developed following extensive consultation, and it is a model with which our members and other industry associations have become familiar.
- 3.12 If the government decides to proceed with introducing principled rules in respect of the financial supplies provisions, we submit the government should seek to protect the existing rules so that the existing systems and processes can be retained by taxpayers. The new rules should, in the main, aim to apply to “new” financial products and others that are not within the scope of the current GST Regulations.

⁴ Rather than, as suggested by the Board of Taxation in its *Review of the Legal Framework for the Administration of the Goods and Services Tax – A report to the Assistant Treasurer and Minister for Competition Policy and Public Affairs*, that the existing regulations impose burden on the ATO due to its difficulty of administration: at sub-paragraph 5.1.17 on page 100.

⁵ *The Taxation (GST, Trans-Tasman Imputation and Miscellaneous Provisions) Act 2003 (NZ)*

4. Specific Answers to questions from the Consultation Paper

4.1 In conjunction with section 3 of this letter, please find below specific answers to questions contained in the Consultation Paper.

Question 1: Would replacing the existing legislative framework with a clear principle or set of principles give effect to the underlying policy intention improve the law and reduce compliance costs?

4.2 Answer: We submit that replacement of the existing legislative framework with a clear principle or set of principles will not improve the law or reduce compliance costs.

4.3 In preparing this submission, Abacus consulted its members to invite feedback. The overwhelming response was in support of maintaining the existing legislative framework. Feedback from members can be summarised as follows:

- (a) significant costs were incurred in the initial set up of systems and processes during the implementation of GST;
- (b) since that time, the ATO has conducted at least an audit or review on the taxpayer. In many cases, the taxpayer had also engaged specialist GST advisors to conduct risk reviews (in some cases, the professional costs to assist with ATO audits and reviews were in excess of \$250,000);
- (c) most of the audits or reviews did uncover issues that required further clarification of the law to the particular facts in question; and
- (d) these issues have been subsequently addressed via ATO position papers or private binding rulings, and the relevant systems and processes have been updated as a result.

Accordingly, the existing legislative framework seems to already provide the level of certainty that can be expected in this complex area of GST law.

4.4 Should the existing framework be replaced with a set of principles, the level of uncertainty will impose a substantial administrative burden on the taxpayers.

4.5 Although the Consultation Paper states that the key policy parameters will be retained, it is likely that the principled rules will provide the ATO with significantly more discretion in its administration of the financial supply provisions. There are several examples where the ATO has not found this discretion easy to exercise in the industry:

- (a) Apportionment: We are aware of (a certain scenarios where ATO officers have been applying a narrow interpretation of its own ruling GSTR 2006/3 *Goods and services tax: determining the extent of creditable purpose for providers of financial supplies* on the appropriateness of using net interest margin as a “fair and reasonable” apportionment methodology.⁶ This is despite the fact that it was explicitly accepted in the earlier ruling⁷, and that GSTR 2006/3 did not specifically change the ATO’s view on the subject.⁸ This is merely an example of the type of uncertainty a set of principles would bring to the industry.
- (b) Securitisation: It has been several years since GST issues relating to securitisation were brought to the attention of the ATO. However, several

⁶ The apportionment is based on the legislative provisions contained within section 11-15(2) of the GST Act, which is a more “principle-based approach” relative to the existing financial supplies provisions.

⁷ GSTR2000/22 *Goods and services tax: determining the extent of creditable purpose for providers of financial supplies* at paragraphs 62 and 102.

⁸ This matter has been raised on several occasions during the course of industry discussions. For example, refer to Issue 6.12 of the NTLG GST sub-group minutes of 19 June 2009 or Issue 7.1 of the NTLG GST sub-group minutes of 3 December 2008.

matters are only coming to resolution this year. Throughout this process, many of our members have incurred significant costs in professional fees in order to achieve the right commercial outcome. It is likely that the matter would have been resolved earlier had government provided clarity on the GST treatment via GST Regulations.

- 4.6 Whilst the law is never “perfect” after its initial draft, one would expect the legislative and judicial functions to work effectively to ensure that the laws are amended as necessary.
- 4.7 The Consultation Paper refers to other models of financial supply provisions that have been introduced in other jurisdictions. Whilst this would have been relevant during the introduction of GST and the consultation process at the time, a discussion of this type after 9 years seems futile when the government intends to maintain the existing policy.
- 4.8 We re-emphasise that, to date, no other overseas jurisdictions with a VAT/GST regime have rewritten its laws after introduction to simply provide “clarity”. Often, the legislative provisions (or the relevant legal instruments) were redrafted to reflect a policy change. Examples include:
- New Zealand’s zero-rating of business to business supply of financial services; and
 - European Union’s place of supply of services change from 1 January 2010.
- 4.9 On the basis that there is no overseas precedent, wider industry support, or any other persuasive reasons, we do not support the replacement of the existing legislative framework with any other structure.

Question 2: What issues would need to be addressed in moving to such an approach?

- 4.10 Answer: Not applicable. As Abacus is not in support of a move to replacing the existing legislative framework, there are no issues that would need to be addressed.
- 4.11 However, should the government choose to move to principle based rules, we would strongly submit that the existing rules need to be protected so that the existing systems and processes can be retained by taxpayers. Significant changes to the GST regime for financial supplies would invariably involve administrative, re-training, compliance and system costs. Our sector would need a detailed consultation process as the impacts could potentially be harmful to the competitive position of our members in a market increasingly dominated by the major banks.
- 4.12 On the subject of financial product fees, within the friendly society sector the financial product fees charged to investors are generally not subject to GST. Friendly society investment products relate to life insurance policies where examples of fees are: entry fees; exit or surrender fees; and switching fees. It is not uncommon for such fees to be embedded as part of premium contributions or policy payout proceeds, factors that have already been recognised in income tax law. Although taxing such fees, as in the South African model, might allow an increased amount to be claimed as input tax credits, product repricing may not necessarily prevent higher product costs to investors.

Question 3: Would adopting an approach similar to South Africa’s, of only applying input tax treatment where there are margins, give rise to distortions?

- 4.13 Answer: not applicable. This is an issue that would have been discussed during the course of consultation when GST was in the process of being introduced.

Question 4: Given the policy outlined in the paper above, what areas of the existing structure do you see as giving rise to uncertainty, or to unintended GST outcomes? Do you see a principles-based approach fixing those uncertainties or unintended outcomes?

4.14 Answer: see paragraph 4.5 of this letter for examples where a principle-based approach did not resolve the uncertainties or unintended outcomes.

Question 5: having regard to the examples above, do you think that the structure of the definition of financial supply could be replaced with a principle or set of principles? If so, what principle or set of principles provides the best policy outcomes?

4.15 Answer: Abacus is not in support of examples 1 to 4 for reasons set out in paragraphs 4.2 to 4.9 of this letter.

4.16 Abacus would seek the opportunity to provide further comments if the laws are to be rewritten.

Question 6: What transitional issues might arise if such an approach were adopted?

4.17 Answer: Significant transitional costs will be imposed on Abacus members as well as suppliers and other stakeholders in the industry, if principle-based rules are adopted.

4.18 As the Consultation Paper concedes in several sections, the introduction of principle-based rules will also introduce a level of uncertainty.

4.19 In order to clarify this uncertainty, it will be necessary for Abacus members to engage external advisors to remain informed.

4.20 As outlined under section 2 of this letter, Abacus represents a vast array of mutual organisations that service many regional areas. In these regional areas, often there is lack of specialist expertise or the financial resources to deal with such a complex area of GST law.

4.21 If government were to rewrite the financial supply provisions, it is likely that Abacus members will incur significant expenditure in external costs, training of staff members and upgrade of systems and processes.

4.22 It is unrealistic for Treasury to suggest that private ruling applications ought to be sought when there is a level of uncertainty. Whilst private binding ruling applications may be a convenient avenue for major organisations, many Abacus members simply do not have the resources to do so. Consequently, our sector, including its regional, rural and remote members, would suffer from the immediate uncertainty brought about by the change.

Question 7: Would there be merit to applying such an approach to other areas of the financial supplies rules, such as reduced credit acquisitions? If so, what would be the best way of doing so and what issues would need to be addressed?

4.23 Answer: No. As Abacus is not in support of principle-based rules, it is of the view that the approach should not be applied to any other area.

Question 8: Would you support continuing with the current legislative structure?

4.24 Answer: Yes. For reasons set out under section 3 and paragraphs 4.2 to 4.9, Abacus is in strong support of continuing with the current legislative structure.

Question 9: Would further specific amendments to deal with some of the issues identified above lead to greater simplicity, more certainty and a reduction in compliance costs or the reverse?

4.25 Answer: No. Abacus does not have further specific amendments it wishes to suggest in respect of the financial supply provisions. However, there are issues with reduced credit acquisitions that are dealt with below.

Question 10: How would you see such an approach (continuing with ad hoc legislative amendments) dealing with new structures/arrangements which may result in outcomes contrary to the current policy intent?

- 4.26 Answer: Abacus would support legislative amendments as and when they are necessary.
- 4.27 An example of this amendment was the deletion of reference to supply of membership in barter schemes in 2004⁹ from the GST regulations to ensure that it is removed from the GST Regulations. A further and more recent example is the supply of certain ATM services.¹⁰

Question 11: What other amendments would you like to see and why?

- 4.28 Answer: No. Abacus does not have other suggested amendments.

Question 12: Do we need a list of both what is and what is not a financial supply? If you favour a single list, should this be of what is, or is not, a financial supply?

- 4.29 Answer: Yes. The list of both what is and what is not a financial supply provide legislative guidelines and should be retained.

Question 13: Would a single list resolve any interpretative and administrative concerns that exist currently?

- 4.30 Answer: Not applicable.

Question 14: How has the introduction of RCAs impacted on financial institutions use of outsourcing and subcontracting services?

- 4.31 Answer: The introduction of RCAs has not impacted Abacus members and their use of outsourcing and subcontracting services.
- 4.32 It has been the tradition of credit unions to utilise credit union service organisations to aggregate acquisitions, and this practice was in place well before the introduction of GST. As such, the introduction of RCAs has not impacted on the credit unions use of outsourcing and subcontracting services. It has simply allowed credit unions to remain competitive with the major financial institutions.
- 4.33 However, due to the constant change to the regulatory environment and market conditions, many mutual organisations have opted for strategic reasons and in their members' interests to merge with other mutuals. This is best illustrated by the fact that Abacus now directly represents credit unions *and* mutual building societies. The long term trend of consolidation in the credit union sector is accompanied by a new development where mergers are being proposed between credit unions and mutual building societies.
- 4.34 It is important to note the merger activities are not driven by profit-making motives (such as creating synergy to deliver better shareholder returns). Most merger activity is more about securing the longer term future of mutual entities to ensure that regional and other Australians continue to have access to services of smaller ADIs and, most importantly, choice and competition in the market.
- 4.35 As a result of these changes and given the narrow definition of item 16 (limiting RCA to acquisitions from organisations wholly owned by credit unions), it is now increasing difficult for services from the service organisations to remain eligible for RCAs.

⁹ Refer to *A New Tax System (Goods and Services Tax) Amendment Regulations 2004 (No.1) 2004 (No. 218)*.

¹⁰ Refer to *A New Tax System (Goods and Services Tax) Amendments Regulations 2009 (No.1) (SLI no.29 of 2009)*.

- 4.36 It is important to note that the behaviours of these service organisations have not changed. They continue to provide services to credit unions and other mutual organisations. At the same time, most of Abacus members continue to lack the ability to have the services provided in-house. That is, the self-supply bias continues to exist after 9 years, but as a result of the market conditions, many Abacus members have now lost the ability to claim RCAs under item 16.
- 4.37 Given these changes in the market and the industry, Abacus submits it is crucial for item 16 to remain and, more importantly, item 16 should be expanded to include other mutual organisations to ensure that the targeted group would continue to remain competitive and is not unnecessarily disadvantaged. This will allow the provisions to keep pace with changes in the industry. In addition, the mere fact that credit union service organisations are no longer only owned by credit unions (but are owned by credit unions and other mutual organisations) should not result in an unfair outcome.
- 4.38 Accordingly, Abacus would strongly submit that item 16 be expanded to replace “credit union” with “credit unions and mutual building societies”. Our specific recommendation and suggested wording are contained under our answers to questions 17 and 18.

Question 15: Has the exclusion of certain out-sourced inputs resulted in distortions or tax planning opportunities, such as the establishment of a special purpose vehicle (SPV), to channel costs and recover an unintended higher level of RITCs?

- 4.39 Answer: To the best of Abacus’ knowledge, members have not set up SPVs to channel costs and recover an unintended higher level of RITCs.
- 4.40 However, as we set out in paragraphs 4.31 to 4.38, whilst the behaviour of credit unions have not changed, they have lost the ability to claim RITCs under item 16 as a result of changes to market conditions.
- 4.41 If other financial institutions are establishing SPV to recover an unintended higher level of RITCs, Abacus members would be significantly disadvantaged in relative terms.
- 4.42 Considering that the reduced credit acquisitions were initially set up to reduce any self-supply bias and to assist smaller financial institution, this policy intent would not be reflected in the current landscape as it is in fact the *reverse* where larger financial institutions may be entitled to RITCs and, on the other hand, Abacus members are no longer entitled to RITCs under item 16 where their service provider entity does not fit within the current definition of item 16.
- 4.43 Abacus strongly urges Treasury to assess this issue in greater detail to ensure the policy intent of RCAs is being achieved, and that Abacus members are being given consistent and equitable treatment under the law.

Question 16: Does the current structure of the RCA provisions give rise to any ambiguities, and so give rise to compliance problems?

- 4.44 Answer: Whilst the current structure of RCA provisions does give rise to certain ambiguities and compliance problems, most of the issues are administrative and can be resolved with the ATO.

Question 17: Do any of the RCAs listed require further clarification? If so, which and how?

- 4.45 Answer: Yes.
- 4.46 The financial sector is undergoing constant change, including the regulatory environment. New Anti Money Laundering and Counter Terrorist Financing Laws

have imposed significant new data collection, verification, monitoring, reporting and record-keeping obligations on financial sector businesses, including all ADIs.

- 4.47 Proposed new laws significantly overhauling the regulation of credit are currently before Parliament. Credit providers, such as ADIs, will have significant new obligations relating to disclosure, credit assessment and record keeping.
- 4.48 The RITC framework should accommodate these developments as and when they arise.
- 4.49 To reflect evolution of the mutual ADI sector and to preserve the original and continuing policy rationale, Abacus is of the view that changes should be made to the following:

- (a) item 16 "Credit Union Services": that reference to "*wholly*" is changed to "*majority*", and insert "*or mutual building society*" or "*or mutual building societies*" (as the case may be) after "*credit union*" or "*credit unions*".
The item would then read:

*Credit union or mutual
building society services*

16

Supply to a credit union or
building society by:

- (a) an entity that is majority
owned by 2 or more credit
unions or mutual building
societies; or
- (b) an entity that is majority
owned by an entity
mentioned in paragraph (a)

The amendment will ensure that the initial policy intent of RITC, being to neutralise the self supply bias incentive, is achieved.

- (b) Items 5, 6 or 7 should be clarified to include costs relevant in the current regulatory environment. That is, costs incurred in collecting data and account processing under the new laws should also be eligible for RITCs (as many non-Abacus member organisations would conduct these activities in-house).

Question 18: Are there any changes that should be made to the existing list of RCAs?

- 4.50 Answer: Yes. If paragraph 4.49 is unable to be incorporated as clarification made to the existing RCA provisions, Abacus recommends that the changes be made to the existing list of RCAs via insertion of additional RITC items.

Question 19: Can these concerns be addressed by capturing the policy intent in a set of principles?

- 4.51 Answer: No. The concerns raised require the rules to be even more specific, rather than adopting a set of principles.

Question 20: Does the current RITC rate of 75 per cent remain appropriate? If not, what should the rate be and why?

- 4.52 Answer: Yes, the current RITC rate of 75 per cent is reasonable.

- 4.53 Abacus disagrees with Treasury's reference to the single rate of 75 per cent as representing a "generous average rate".
- 4.54 During the introduction of GST, the credit union industry provided documentation to the Federal Treasury which supported a RITC rate of more than 75 per cent.¹¹ This is a clear indication that the rate was not "generous", it was merely an agreed rate following negotiations between the government and relevant stakeholders.
- 4.55 Since the implementation of GST, the business models and industry structures of Abacus members have not substantially changed. That is, as was the case prior to the GST, most have lacked the ability to have services provided in-house (self-supply) and have had to continue to outsource. At the same time, the larger financial institutions have become much larger and it is becoming increasingly challenging for Abacus members to compete in the market to provide choice and services to their customers. Mergers within the industry are a reflection of these pressures. An illustration of the size differential is that the total assets held by 133 credit unions and building societies at December 2008 were 2.72% of the 4 major banks' total assets.¹²
- 4.56 During implementation, the government supported a RITC rate that was designed to ensure neutrality, rather than having a bias to set a lower rate for revenue reasons.¹³ This position was also supported by the industry at the time.¹⁴
- 4.57 Accordingly, we submit the RITC rate should remain at 75 per cent. There are simply no grounds for the government to reduce the rate. It is possible that any further analysis of the industry today will reveal a rate that may be higher than 75 per cent.
- 4.58 We also note that any reduction in the RITC rate would amount to a tax increase on the financial sector and its customers and would be most heavily felt by those participants in the financial sector who do the most outsourcing, i.e. smaller participants who have no choice whether or not to outsource. This would be a poor outcome given that Abacus members are driven by community involvement and service to customers, including in regional Australia, not just profits and maximising returns to shareholders.
- 4.59 If the government were to reconsider the appropriateness of the RITC rate, a detailed consultation process must be carried out to ensure its fairness and consistency within the industry.

Question 21: Should there be differing rates for different types of acquisition or sectors?

- 4.60 Answer: No, a single rate should remain.
- 4.61 Abacus members have expressed a desire to maintain a single rate for ease of administration. Whilst it may be possible to create different rates for different types of acquisitions or sectors, this may instead create unintended tax planning opportunities for organisations that are better resourced to assess the differences closely. On the other hand, Abacus members will most likely struggle to cope with the changes and the advisory costs that will be incurred as a result.
- 4.62 It is worth noting that, during implementation, the government supported a single rate, which was also the preference of the industry.¹⁵

¹¹ See, for example, NCUA's submission to the Senate Select Committee in September 1999.

¹² Based on 2008 December year end data issued by the Australian Prudential Regulation Authority on 17 March 2009 (\$66,433.6 million / \$2,443,444 million).

¹³ See *The application of Goods and Services Tax to Financial Services* (issued on 2 August 1999) by Treasury at page 22.

¹⁴ See, for example, NCUA's submission to the Senate Select Committee in September 1999 at page 10.

4.63 Accordingly, we do not support different rates for different types of acquisition or sectors.

Question 22: Would multiple rates lead to excessive administrative and compliance costs?

4.64 Answer: Yes, multiple rates would lead to excessive administrative compliance costs.

4.65 Multiple rates will require a review of the existing systems and procedures, as well as the general ledger codes. These reviews will create substantial project costs.

4.66 In addition, multiple rates are likely going to create additional procedures which will add to the existing administrative costs.

4.67 Accordingly, we do not support the change of RITC to a multiple rates framework.

For further information, contact:

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¹⁵ See *The application of Goods and Services Tax to Financial Services* (issued on 2 August 1999) by Treasury

Australian Credit Unions & Mutual Building Societies

FACTS AND FIGURES AT A GLANCE

SIZE	
Numbers	<ul style="list-style-type: none"> > 117 credit unions > 9 mutual building societies
Assets and Growth	<ul style="list-style-type: none"> > Collectively, our sector has more than \$70 billion in assets¹. > Credit unions' on-balance sheet assets reached \$45.8bn in March 2009, growing by 10% annually while mutual building societies' on-balance sheet assets amounted to \$18.5bn in the same period.
Market Share	<ul style="list-style-type: none"> > Hold approximately 7% of the new home loan market and 12% of household deposits. > Collectively, credit unions and mutual building societies are the fourth largest holder of household deposits in Australia.
Population Penetration	<ul style="list-style-type: none"> > We serve over 4.6 million members - close to 1 in 5 of the total population > Population penetration (members as a proportion of the total population) is highest in SA (36%), Tasmania (36%), and NSW (28%)
STRENGTH	
Customer Satisfaction	<ul style="list-style-type: none"> > 85.7% of credit union and 88.5% of building society members reported high satisfaction in May 2009. > Credit unions and mutual building societies consistently out-perform banks (majors 71.4% and total banks 72.9% in May 2009).
Competitive Advantages	<ul style="list-style-type: none"> > Mutual structure means no tension between servicing customers and external shareholders – customers (members) are the owners > Better placed than most to satisfy key needs of consumers, that is: <ul style="list-style-type: none"> - member focus - sense of community / belonging - honesty and integrity - guidance - simplicity > Competitively priced > Close to half of all members are outside capital cities, approx. one quarter of which are in regional cities and three quarters in rural areas
Strong Regulation	<ul style="list-style-type: none"> > All credit unions and building societies (and banks) are Authorised Deposit-taking Institutions (ADIs), regulated under the <i>Banking Act</i>. We meet the same high standards of prudential regulation as banks with full regulatory oversight by APRA, the prudential regulator. > The Government has guaranteed all deposits of up to \$1 million at all Australian credit unions and building societies (and banks). For deposits of more than \$1 million, an optional government guarantee is available for a fee.
PRODUCTS	
Product Range	<ul style="list-style-type: none"> > Mutual ADIs 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 March 2009 this was up to 24.1% (i.e., a 70% increase in 8 years)

¹ Based on June 2008 annual reports.

Australian Credit Unions & Mutual Building Societies

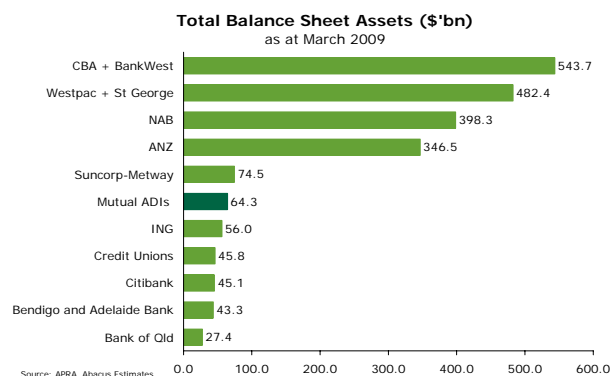
Mutual ADIs

There are 117 credit unions and 9 mutual building societies in Australia – ranging from small ADIs through to the largest credit union with over \$6bn in assets. Collectively, the industry has more than \$70bn 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.

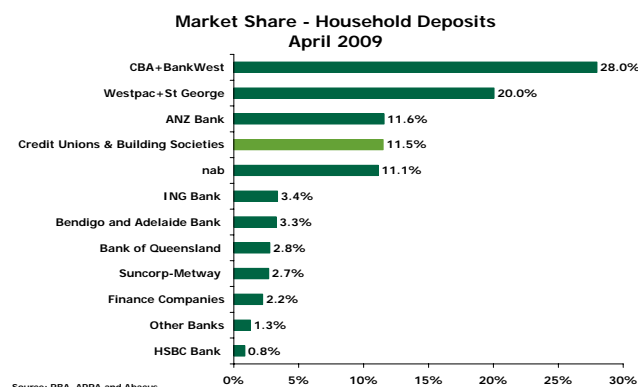
Market Share

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 7% of the new home loan market. As a group, credit unions and mutual building societies are the fourth largest deposit gathering force after CBA, Westpac and ANZ reaching almost 12.0% market share.



(Source: APRA, RBA)

Products and Services

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

Credit unions and mutual building societies charge less than the major banks in interest rates as shown in the following table.

Standard Variable Home Loan Rates by Lenders (as listed by CANNEX)

29-Jun-09

Standard Variable	Average	Min
5 Majors	5.78	5.74
Credit Unions	5.56	4.81
Building Societies	5.45	5.09

(Source: Canstar Cannex)

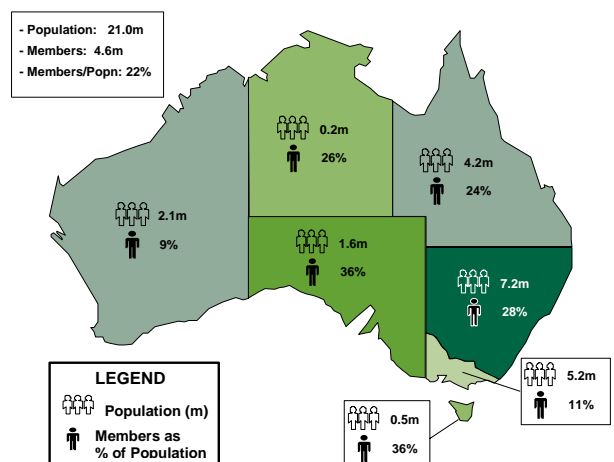
An ASIC survey released early in 2008 also reported that credit unions and mutual building societies charge, on average, the lowest overall loan fees in the lending market.

Similarly, we offer attractive deposit rates on saving investment accounts and 30-day term deposits as at 29 June 2009, offering between 74 and 125 basis points higher than the major banks.

In May 2009, 85.7% of credit unions' and 88.5% of building societies members were satisfied, consistently out-perform banks (majors 71.4% and total banks 72.9% in May 2009).

Strong country coverage

As at June 2008, Australia's total population was 21 million, of which 4.6 million (22%) 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%)