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Association of Building Societies and Credit Unions

Abacus
Australian Mutuals

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General Manager
Indirect Tax Division
The Treasury
PARKES ACT 2600
By email: FinancialSupplies@treasury.gov.au

Dear Sir/Madam,

GST reduced input tax credit for 'transactional fraud monitoring'

Thank you for the opportunity to comment on draft regulations implementing the May 2010 Budget announcement to expand the range of expenses qualifying for a reduced input tax credit (RITC) to include a new item covering "transactional fraud monitoring services".

Abacus – Australian Mutuals is the industry body for the mutual banking sector, representing 93 credit unions, 7 building societies and 4 mutual banks. The mutual banking sector has 4.6 million customers and provides important competition and choice in the retail banking market.

The RITC framework is vital to competition in financial services. Smaller banking institutions such as mutuals continue to operate at a competitive disadvantage under GST input taxing compared to larger entities. This was reaffirmed in the 2009 *Australia's Future Tax System* (Henry) review finding that the self-supply bias of GST input taxing "gives large, vertically integrated businesses an advantage over smaller competitors."

The RITC framework goes some way to respond to the anti-competitive impact of GST input taxing.

Customer-owned banking institutions are the smallest participants in the banking market and therefore rely more heavily than major banks on outsourcing to access critical inputs, such as transactional fraud monitoring.

Outsourcing allows smaller players to access economies of scale and hence greater capacity to compete against the major banks, protect their customers and meet their regulatory obligations.

Regulatory obligations to carry out transactional monitoring to tackle fraud and financial crime include operational risk management measures required by APRA and AML/CTF monitoring required by AUSTRAC.

APRA's prudential standard on risk management of credit card activities (APS 240) requires card issuers and acquirers to implement policies, systems and procedures with respect to the integrity of transaction data and fraud risk management.

“Both credit card issuers and acquirers are exposed to operational risk arising mainly from systems failure, outsourcing arrangements and fraudulent transactions,” APS 240 says.

Transactional fraud

Customer-owned banking institutions source transactional fraud monitoring services from a range of providers including aggregation hubs such as Cuscal and Indue and other domestic commercial suppliers.

The cost of fraud has increased dramatically since the introduction of the GST. Smaller ADIs need a level playing field in terms of the GST input tax burden to be able to compete with large, vertically integrated banks in payments product markets. Cost-effective access to the latest transactional fraud monitoring technology is vital to the competitive position of smaller ADIs.

The Australian Payments Clearing Association (APCA)[1] says fraud data for the year to end June 2011 shows that payments fraud in Australian increased from 9.9 cents to 12.2 cents in every $1,000 transacted, compared to the previous year.

Scheme credit, debit and charge card fraud increased from 58.9 cents to 74.3 cents in every $1,000 transacted. APCA says “card not present” fraud now accounts for 71 per cent of fraud value on Australian issued scheme credit, debit and charge cards, of which more than half occurs overseas.

“This is related to the boom in Australians shopping online and in particular on overseas websites due to the high Australian dollar,” APCA says.

Draft regulation too limited

Our concern with the draft regulation is that the scope of the new RITC item is far more limited than implied by the description “transactional fraud monitoring services.”

The terms “transactional fraud” are missing from the item’s heading, which has been reduced to *Monitoring services*.

These terms are also missing from the body of the proposed new RITC item 33:

> *Monitoring and reporting services (other than taxation and auditing services) that:*
> *(a) are acquired on or after 1 July 2012; and*
> *(b) are required for compliance with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.*

ADIs carry out transactional monitoring to fight fraud quite separately from their obligations to carry out transactional monitoring to reduce their AML/CTF risk.

The description of this policy initiative as “transactional fraud monitoring” has appeared consistently in Government publications since the May 2010 Budget announcement and appears again in Treasury’s current webpage inviting submissions on the draft regulation.

Treasury’s June 2010 discussion paper *Implementation of the recommendations of Treasury’s review of the GST financial supply provisions* includes the following section:

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[1] Payments Monitor Fourth Quarter 2011, APCA

Principle 3 —include transactional fraud monitoring services

50. Transactional fraud monitoring services should be added to the list of reduced credit acquisitions.

Commentary

51. Since the introduction of the GST, there have been a number of developments in the regulation of the financial sector. One new area of regulation has been substantial increases in the obligations on financial institutions to undertake measures to monitor transactions to prevent fraud.

52. These services are inherently linked to financial services and are capable of being insourced. Given this, they meet the criteria to be included on the list of reduced credit acquisitions.

The APRA prudential standard mentioned above, introduced in 2003, is an example of the expansion of regulatory obligations requiring transaction monitoring. The introduction of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* is another example. The new ePayments Code launched by ASIC in September 2011 is a further example. The ePayments Code regulates electronic payments, including ATM, EFTPOS and credit card transactions, online payments, internet and mobile banking, and BPAY.

Amendment requested
Abacus requests an amendment to the draft regulation to ensure implementation of the policy intention to provide a new RITC item to cover acquisitions used to monitor transactions to prevent fraud.

This could be achieved by adding to the regulation an additional clause:

(c) are used to carry out transactional fraud monitoring.

Please contact me on 02 6232 6666 or at llawler@abacus.org.au to discuss any aspect of this submission.

Yours sincerely

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