



**Abacus**  
Australian Mutuals

Association of Building Societies and Credit Unions

27 June 2012

General Manager  
Indirect Tax Division  
The Treasury  
PARKES ACT 2600  
Email: [FinancialSupplies@treasury.gov.au](mailto:FinancialSupplies@treasury.gov.au)

**Attention: Rob Dalla Costa**

Dear Rob

Thank you for the opportunity to comment the exposure draft regulation *A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. )* relating to access to RITCs for credit unions and former credit unions that have rebranded as banks.

We propose some changes to the draft regulation and an addition to the associated Explanatory Memorandum to deliver greater certainty.

The current draft could require a mutual bank at some point in future to prove that it was listed on the APRA website as a credit union on 1 July 2011 and that it was listed on the APRA website as a credit union *at all times* in the period between 1 July 2011 and the time it was listed on the APRA website as an Australian-owned bank.

Attaching to the Explanatory Memorandum a snapshot of the APRA's list of ADIs as of 1 July 2011 would make it easy to prove compliance with clause (b)(i).

However, proving compliance with clause (b)(iii) could be difficult. Abacus suggests that clause (b)(iii) is unnecessary and could be challenging in practice for ADIs and the ATO. We recommend that clause (b)(iii) should be removed.

We suggest some additional wording to clause (b)(ii) to define what is meant by "mutuality".

The common law definition of mutuality is problematic in this context. We note that the Explanatory Memorandum refers to mutuality under ASIC's Regulatory Guide 147. APRA recently published the following definition of a mutual ADI: "An ADI operating under a mutual structure in accordance with *Regulatory Guide 147 Mutual – Financial Institutions*, ASIC, September 2000."<sup>1</sup>

Clause (c) should be changed to reflect the relevant entity's current name, as listed on APRA's website: Cairns Penny Savings & Loans Limited.

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<sup>1</sup> *Response to Submissions – Implementing Basel III capital reforms in Australia* APRA 30 March 2012, glossary, p5.

Our proposed wording of the regulation is as follows:

credit union means:

(a) an Australian ADI listed on the APRA website as a credit union; or  
(b) an Australian ADI listed on the APRA website as an Australian-owned bank

that:

(i) on or before 1 July 2011 was listed on the APRA website as a credit union; and

(ii) retains mutuality under the approach set out in *Regulatory Guide 147 Mutuality – Financial Institutions*, ASIC , September 2000;

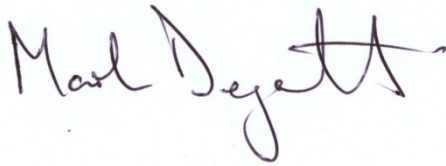
or

(c) the Cairns Penny Savings & Loans Limited.

Our proposed addition to the Explanatory Memorandum is the list of ADIs listed on the APRA website as credit unions on 1 July 2011.

If you wish to discuss any aspect of this submission, please contact Luke Lawler on 02 6232 6666.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Mark Degotardi', with a stylized flourish at the end.

**MARK DEGOTARDI**  
**Head of Public Affairs**