



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 15018
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Mr Charles Littrell
Executive General Manager
Australian Prudential Regulation Authority

Dear Mr Littrell

Final Assessment Regulation Impact Statement – Banking Exemption Order for Registered Financial Corporations

Thank you for forwarding the Regulation Impact Statement (RIS) for the above proposal for final assessment by the OBPR on 27 October 2014. I note that you have formally certified the RIS as required by the best practice regulation requirements.

The Office of Best Practice Regulation's (OBPR) final assessment is that Australian Prudential Regulation Authority (APRA) is compliant with the Government's requirements. This assessment is based on:

- the regulatory costs having been agreed with the OBPR;
- APRA having twice submitted the certified RIS for the OBPR's assessment prior to a decision being taken; and
- your letter of 27 October 2014 certifying the RIS responds to the OBPR's formal comments on the RIS submitted for first-pass assessment (letter dated 20 June 2014).

In addition, I note that the RIS:

- answers the 7 RIS questions; and
- does not contain obvious errors.

The RIS now provides good contextual information about the market, and your letter provides a reasonably thorough response to my letter on the RIS submitted for first-pass assessment.

However, the OBPR's assessment is the RIS is not consistent with best practice. Our assessment is concerned with your consultation and depth of analysis of feasible options.

- In our letter of 20 June we asked for further information regarding retail investors that would benefit the explanation of the status quo and the impact of proposed changes. Your response outlines that while consultation was open to all no

submissions were received from individual investors. This is inconsistent with best practice. APRA should have sought out information and views from relevant stakeholders. It is not consistent with best practice consultation that stakeholders must seek out APRA.

- Not all feasible options have been analysed in sufficient depth. In particular, one submission suggested requiring retail investors to sign a declaration that they understand they are not investing in an ADI when they are investing in an RFC. On the face of it, this appears capable of addressing the investor comprehension issue, possibly in a more cost-effective manner than the alternatives. However, the RIS did not consider this possibility. It is important to note this option also appears better aligned with the government's focus on deregulation and minimising regulatory impacts on smaller businesses.

Publication requirements


The Office of Best Practice Regulation (OBPR) maintains a RIS website and the Government requires that RISs be posted within 5 business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*.

We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate. Please retain this letter as a record of the OBPR's advice.

Our reference number for this issue is 15018. If you have any further queries, please do not hesitate to contact me.

Yours sincerely



Jason McNamara
Executive Director
Office of Best Practice Regulation
31 October 2014