

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY

AND

THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

1. Objective

- 1.1 This memorandum of understanding (MOU) sets out a framework for cooperation between the Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC) (the agencies) in areas of common interest where co-operation is essential for the effective and efficient performance of their respective financial regulation functions.

2. Responsibilities

- 2.1 APRA is responsible for the prudential supervision of banks, building societies and credit unions, life and general insurance companies, friendly societies, and superannuation funds and their trustees¹. APRA is also responsible for administering the Financial Claims Scheme. In performing its functions to protect the interest of depositors, policyholders and fund members, APRA is required to balance financial safety with efficiency, competition, contestability and competitive neutrality.
- 2.2 ASIC is responsible for monitoring, regulating and enforcing corporations laws and financial services laws and promoting market integrity and consumer protection across the financial services and the payments system including financial markets and trustee companies. ASIC is also responsible for administering the national consumer credit legislation, including licensing and conduct obligations on credit providers and intermediaries.
- 2.3 On ASIC's behalf, APRA is also responsible for data collection from Australian financial services licensees authorised to deal in general insurance products. The joint administration of this data collection will be set out in a Cooperative Working Agreement between the agencies.

¹ Excluding self-managed superannuation funds

3. Regulatory and Policy Development

- 3.1 Each agency will notify the other of any proposed changes in regulatory policy, guidance or regulatory decisions which are likely to impact on the responsibilities of the other and provide the opportunity to consult.
- 3.2 Where the implementation of regulatory policy, guidance or regulatory decisions by one of the agencies is likely to impact on the responsibilities of the other, that agency will notify the other.
- 3.3 Where appropriate, the agencies will consult with each other in relation to regulatory or policy documents and media releases, which are being formulated and which may be of interest to or have an effect on each agency. Where appropriate, the agencies may consider whether to issue a regulatory or policy document or media release on a joint basis, having regard to the subject matter of the release, the policy objectives of each regulator and the objectives of this MOU.

4. Mutual Assistance and Co-ordination

- 4.1 The agencies recognise the need for full collaboration and co-operation between them at all levels to effectively discharge their respective responsibilities. The agencies also acknowledge the importance of co-operation to promote confidence in the financial system and the confident and informed participation of all stakeholders in that system.
- 4.2. The agencies agree to provide each other with mutual assistance in a timely manner in relation to the exchange of information, appropriate referral of matters and cooperation in relation to areas of mutual interest in relation to regulation, compliance, policy matters and enforcement consistent with all relevant laws.
- 4.3 The agencies agree to establish such arrangements as are appropriate to facilitate cooperation in matters such as co-ordinating information sharing, joint inspections or task forces, referral of cases and enforcement action or major supervisory intervention. The agencies will also co-ordinate operational matters such as administrative arrangements to avoid duplication, statistical collections, joint research work or industry consultation, and participation in international fora. These arrangements will include APRA's Members and ASIC's Commissioners, and senior executives in each agency as necessary.
- 4.4 The agencies agree that liaison in respect of routine operational matters will occur on an "as needed" basis between appropriate staff of the two agencies. In addition, the agencies will, where appropriate,

consult each other in relation to arrangements for media releases, joint publications, and joint contact with stakeholders.

5 Information Sharing

- 5.1 Full and timely exchange of information is a crucial element in co-ordination between APRA and ASIC.
- 5.2 APRA gathers a wide range of information on the entities which it prudentially supervises. ASIC gathers a wide range of information in its role in monitoring and promoting market integrity and consumer protection in relation to the Australian financial system.
- 5.3 The agencies agree that, subject to legislative provisions, information available to one agency, which is relevant to the responsibilities of the other agency, will be shared as requested. Each agency will provide relevant information to the other on a best endeavours basis, with due regard to the urgency of doing so.
- 5.4 When exchanging confidential information, APRA and ASIC acknowledge the confidentiality and secrecy requirements of the legislation under which each agency operates. The agency providing information has the right to specify the level of confidentiality attached to the information it provides to the other.
- 5.5 The agencies will work together to avoid duplication in the collection of information so as to minimise the reporting burden on financial institutions.
- 5.6 Each agency agrees not to disclose any confidential information obtained pursuant to this MOU to a third party unless it has obtained the prior consent of the agency which has provided the confidential information, or it is required, authorised or permitted by law to disclose the confidential information.
- 5.7 Subject to legal restrictions and appropriate cost sharing, each agency may arrange for information relevant to its responsibilities to be collected from financial entities by the other agency.

6. Unsolicited Assistance

- 6.1 Each agency recognises that in the course of carrying out its functions and exercising its powers, it will come into possession of information which would, if provided to the other agency, be likely to assist that other agency in administering or enforcing the particular laws for which

it is responsible.

- 6.2 Each agency agrees, subject to legal restrictions, to use its best endeavours to notify the other agency of the existence of any information of a kind referred to above, and with due regard to the urgency of doing so to provide such information to the other agency, notwithstanding that it may not have received a request from the other agency for such information.

7. Cost of Provision of Information

- 7.1 In general, the agency which receives a request for information will bear the cost incurred by it in locating and providing the information to the agency which requests the information.
- 7.2 If it appears to the agency that receives the request that it will incur substantial costs in responding to the request, it may make representations to that effect to the requesting agency and the parties may negotiate a cost-sharing arrangement in relation to the provision of that information.

8. International Representation

- 8.1 The agencies will co-operate to ensure that Australia has appropriate representation in regional and international regulatory fora and training initiatives. In some circumstances, there will be joint representation but where only one agency is represented it will consult with the other agency as needed before and after the particular gathering.



Mr Tony D'Aloisio
Chairman
ASIC



Dr John Laker, AO
Chairman
APRA

18 May 2010

This MOU comes into effect on this date and replaces the previous MOU signed on 30 June 2004.