

**Australian Securities and Investments Commission
National Credit Code – Subsection 203A(1) – Exemption**

Enabling power

1. The Australian Securities and Investments Commission (**ASIC**) makes this instrument under subsection 203A(1) of the National Credit Code (the **Code**).

Note: The Code is found in Schedule 1 to the *National Consumer Credit Protection Act 2009* and has effect as a law of the Commonwealth.

Title

2. This instrument is ASIC Instrument [11-0580].

Commencement

3. This instrument commences on 1 July 2011.

Exemption

4. ASIC exempts a shared equity contract entered into by HomeStart Finance (the **credit provider**) from subsection 23(1) of the Code to the extent the contract provides for a credit fee or charge (the **shared appreciation payment**) covered by subregulation 79A(1) of the *National Consumer Credit Protection Regulations 2010* to be paid on or in relation to the termination of the contract that is calculated by reference to a percentage of any increase, over the term of the contract, in the market value of the residential property that secures obligations under the contract.

Where this exemption applies

5. The exemption in paragraph 4 applies for so long as the credit provider:
 - (a) ensures that the terms of the contract that specify the method of calculation of the shared appreciation payment cannot be varied during the term of the contract; and
 - (b) prominently discloses the following matters in the contract document:
 - (i) the basis on which the shared appreciation payment is calculated; and
 - (ii) a warning that the shared appreciation payment may constitute a significant lump sum amount in the event of a significant increase in the value of the residential property; and
 - (iii) worked dollar examples of how the shared appreciation payment is calculated, including the effect on the amount of the payment of changes to the value of the residential property; and

- (c) gives the contract document to the debtor:
 - (i) before the contract is entered into; or
 - (ii) before the debtor makes an offer to enter into the contract;whichever first occurs.

Interpretation

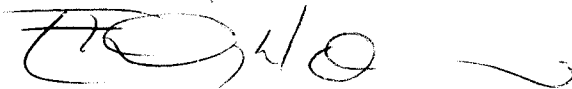
6. In this instrument:

HomeStart Finance means the statutory corporation established under the former *Housing and Urban Development (Administrative Arrangements) (HomeStart Finance) Regulations 1995* of South Australia pursuant to the *Housing and Urban Development (Administrative Arrangements) Act 1995* of South Australia, and continued in existence under the *Housing and Urban Development (Administrative Arrangements) (HomeStart Finance) Regulations 2007* of South Australia.

shared equity contract means a credit contract, under which any of the amount of credit is secured over residential property and which contains each of the following terms:

- (a) no interest charges apply to the credit provided under the contract; and
- (b) the debtor is not required to make periodic repayments under the contract; and
- (c) the credit provider is entitled to charge, and the debtor is obliged to pay, a shared appreciation payment, on or in relation to the termination of the contract; and
- (d) the method of calculating the shared appreciation payment is the same irrespective of the date on which the contract is terminated.

Dated this 30 day of June 2011



Signed by Emily Howman
as a delegate of the Australian Securities and Investments Commission