Australian Securities and Investments Commission

National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009 – Paragraph 41(1)(a) of Schedule 2 – Exemption

National Consumer Credit Protection Act 2009 – Paragraph 109(1)(a) – Exemption

National Credit Code – Subsection 203A(1) - Exemption

Enabling power

1. The Australian Securities and Investments Commission (***ASIC***) makes this instrument under:

   (a) paragraph 41(1)(a) of Schedule 2 to the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (the ***Transitional Credit Act***); and

   (b) paragraph 109(1)(a) of the *National Consumer Credit Protection Act 2009* (the ***Credit Act***); and

   (c) subsection 203A(1) of the National Credit Code (the **Code**).

   Note: The Code is found in Schedule 1 to the Credit Act.

Title

2. This instrument is ASIC Instrument [11-0609].

Commencement

3. This instrument commences on the 23rd day of June 2011.

Exemption

4. A person (the ***credit provider***) specified in Schedule A does not have to comply with:

   (a) subitems 6(1) and (2) of Schedule 2 to the Transitional Credit Act;

   (b) subsections 29(1) and (2) of the Credit Act; and

   (c) the provisions of the Code (other than Part 1, Part 4, Division 3 of Part 5, Divisions 4 and 5 of Part 7 and Parts 12, 13 and 14).

   Note 1: Subitem 6(4) of Schedule 2 to the Transitional Credit Act may provide a defence to a person who engages in a credit activity on behalf of another person that is exempt from subitems 6(1) and (2) of Schedule 2 to the Transitional Credit Act in relation to the credit activity under paragraph 41(1)(a) of Schedule 2 to the Transitional Credit Act.

Note 2: Subsection 29(4) of the Credit Act may provide a defence to a person who engages in a credit activity on behalf of another person that is exempt from subsections 29(1) and (2) of the Credit Act in relation to the credit activity under paragraph 109(1)(a) of the Credit Act.

Where exemption applies

5. The exemptions in paragraph 4 apply to credit activities engaged in by the credit provider in relation to the provision of credit to an eligible person under a credit contract, where:

   (a) the credit is provided wholly or predominantly to purchase residential property, motor vehicles or furniture; and

   (b) the interest rate charged under the credit contract does not exceed:

      (i) for a credit contract with a fixed interest rate—the maximum rate that applies at the time of entering into the credit contract; or

      (ii) for a credit contract with a variable interest rate—the maximum rate that applies from time to time; and

   (c) the credit contract does not impose:

      (i) credit fees and charges; or

      (ii) a default rate of interest.

6. The exemptions in paragraph 4 apply for so long as the credit provider:

   (a) is a member of an external dispute resolution scheme specified in ASIC Class Order [CO 10/249] or any instrument that replaces that Class Order; and

   (b) has an internal dispute resolution procedure that:

      (i) complies with the standards and requirements specified in ASIC Class Order [CO 10/250] or any instrument that replaces that Class Order; and

      (ii) covers disputes in relation to credit activities engaged in by the credit provider or its representatives; and

   (c) maintains adequate arrangements for compensating persons for loss or damage suffered because of a breach of a credit contract by the credit provider or a failure to comply with the terms of this instrument that satisfy any requirements prescribed for the purposes of paragraph 48(2)(a) of the Credit Act as if the credit provider were a licensee.

Interpretation

7. In this instrument:

credit activity has the meaning given by section 6 of the Credit Act.

credit contract has the meaning given by section 4 of the Code.

credit fees and charges has the meaning given by subsection 204(1) of the Code.

default rate has the meaning given by section 27 of the Code.

eligible person means a person who:

(a) has been ordained as a Minister of the Word; or

(b) has been ordained as a Deacon or Deaconess; or

(c) is preparing for ministry as a person mentioned in paragraphs (a) or (b), whose application for candidature has been approved in accordance with The Uniting Church in Australia Regulations; or

(d) has been certified to the ministry of a Lay Pastor and commissioned in recognised placement; or

(e) is or was an employee of The Uniting Church in Australia, Synod of Victoria and Tasmania; or

(f) is or will be a joint debtor with a person mentioned in paragraphs (a) to (e).

licensee means a person who holds an Australian credit licence.

maximum rate means:

(a) where the credit is provided wholly or predominantly to purchase a residential property or furniture—the cash rate as published by the Reserve Bank of Australia from time to time plus a margin of 4% per cent per annum; and

(b) where the credit is provided wholly or predominantly to purchase a motor vehicle—the cash rate as published by the Reserve Bank of Australia from time to time plus a margin of 7% per cent per annum.

residential property has the meaning given by subsection 204(1) of the Code.

Dated this 23rd day of June 2011

Signed by Felicity Natoli
as a delegate of the Australian Securities and Investments Commission

Schedule A

Person
UCA Cash Management Fund Limited ACN 075 948 444
The Uniting Church in Australia Property Trust (Victoria) ABN 39 703 442 583, a corporation constituted under *The Uniting Church in Australia Act 1977* of Victoria, in its corporate capacity and in its capacity as trustee of the Uniting Church in Australia Synod of Victoria Ministers Home Endowment Fund ABN 94 914 136 687