

**Australian Securities and Investments Commission****National Consumer Credit Protection Act 2009 – Paragraph 163(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 163(1)(a) of the *National Consumer Credit Protection Act 2009* (the *Act*); and
  - (b) subsection 203A(1) of the National Credit Code (the *Code*).

Note: The Code is Schedule 1 to the Act.

**Title**

2. This instrument is ASIC Instrument [13-1392].

**Commencement**

3. This instrument commences on the day it is signed.

**Exemptions**

4. Rismark International Funds Management Limited ACN 114 530 139 (*Rismark*), Permanent Custodians Limited ACN 001 426 384 (*Permanent Custodians*) and Perpetual Corporate Trust Limited ACN 000 341 533 (*Perpetual Corporate Trust*) as trustee for Rismark and their credit representatives do not have to comply with:
  - (a) Part 3-2D of the Act;
  - (b) subsection 17(15A) of the Code;
  - (c) section 18A of the Code;
  - (d) section 18B of the Code;
  - (e) subsection 26(6) of the Code;
  - (f) paragraph 33(2)(aa) of the Code;
  - (g) paragraph 33(2)(ba) of the Code;
  - (h) section 67A of the Code;
  - (i) Subdivision B of Division 1 of Part 5 the Code;

- (j) paragraph 88(1)(d) of the Code;
- (k) paragraph 88(2)(d) of the Code;
- (l) subsection 88(7A) of the Code;
- (m) section 93A of the Code;
- (n) section 185A of the Code;
- (o) regulation 28HA of the National Consumer Credit Protection Regulations 2010 (the *Regulations*); and
- (p) regulation 28LC of the Regulations.

**Where exemptions apply**

5. The exemptions in paragraph 4 apply in relation to a credit contract that satisfies each of the following:
  - (a) Permanent Custodians or Perpetual Corporate Trust is the credit provider;
  - (b) any part of the amount of credit is secured over residential property, for a fixed term that does not expire later than the 25<sup>th</sup> anniversary of the contract;
  - (c) the credit contract contains each of the following terms:
    - (i) no periodic interest charges apply to the credit provided under the contract unless the debtor is in default;
    - (ii) the debtor is not required to make periodic repayments under the contract;
    - (iii) the method of calculating the appreciation payment and minimum cost payment is the same at the expiry of the term of the contract or on termination of the contract at a date earlier than the expiry of the term of the contract;
  - (d) the credit contract contains at least one of the following terms:
    - (i) the credit provider is entitled to charge, and the debtor is obliged to pay, an appreciation payment, on or in relation to the termination of the contract; or
    - (ii) the credit provider is entitled to charge, and the debtor is obliged to pay, the greater of an appreciation payment or minimum cost payment, on or in relation to the termination of the contract;

(e) the credit contract is a credit contract for a reverse mortgage.

6. The exemption in subparagraph 4(a) applies to a credit activity in relation to a credit contract referred to in paragraph 5.

#### **Cessation**

7. This instrument ceases to apply on 1 December 2015.

#### **Interpretation**


8. In this instrument:

***appreciation payment*** means a credit fee or charge 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.

***minimum cost payment*** means a credit fee or charge that is calculated by reference to a percentage rate, the amount of credit and the number of years the contract remains in force.

***reverse mortgage*** has the meaning given by section 13A of the Code.

Dated this 20<sup>th</sup> day of December 2013



Signed by Richard McMahon

as a delegate of the Australian Securities and Investments Commission