

**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*.

**Title**

2. This instrument is ASIC Instrument [13-1483].

**Commencement**

3. This instrument commences on 20 November 2013.

**Exemption**

4. ASIC exempts a shared equity contract entered into by the Corporation of the City of Adelaide (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:

***Corporation of the City of Adelaide*** means the local government body for the city of Adelaide which operates under the *Local Government Act 1934* (SA) and the *Local Government Act 1999* (SA).

***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 20<sup>th</sup> day of November 2013



Signed by Richard McMahon  
as a delegate of the Australian Securities and Investments Commission