

1 July 2016

Ms Stephanie Rickard
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By Email: Stephanie.rickard@asic.gov.au

Dear Ms Rickard

Submission in relation to ASIC Consultation Paper 207 Charitable Investment Fundraisers; Regulatory Guide 87; Class Order 02/184

Our Ref: DCC:4224615

We refer to the above matter and our recent correspondence, in particular, my email dated 3 May 2016 to Andrew Duffy and Andrew's letter in reply dated 9 May 2016.

As stated in my earlier correspondence, we act for The Baptist Union of Queensland ABN 59 241 212 544 trading as Queensland Baptists (**QB**).

Queensland Baptist Investment Offerings

QB offer two forms of term deposit account to investors:

1. a regular interest bearing account or non-interest bearing account;
2. a Kingdom Offset Account.

Copies of the Terms and Conditions for each account are **attached** for your information.

Relevant to the submissions set out in this letter, you will note from the Terms and Conditions that:

1. QB notify and disclose to the investor that all investments will be administered by BapLink which operates as part of The Baptist Union of Queensland.
2. BapLink discloses to investors that:
 - (a) BapLink is not subject to requirements to have a disclosure document or PDS;
 - (b) BapLink do not need to be registered or have a trust deed under the Corporations Act;
 - (c) the investment scheme has not been examined or approved by ASIC;
 - (d) QB or BapLink are not prudentially supervised by APRA;
 - (e) the contributions to the fund do not obtain the benefit of the deposit protection provisions of the Banking Act.
3. It is disclosed to the investor that BapLink accounts and schemes are designed for investors who wish to promote the charitable purposes of The Baptist Union of Queensland and its constituted Churches for whom the considerations of profit are not of primary relevance;

4. In relation to term investments – in line with the APRA ruling, BapLink will introduce conditions that mean it can no longer offer at-call accounts or investments and that closure or withdrawal of a fixed term investment cannot be made until the expiry of 31 days after such a request has been made and is agreed by BapLink (save for specific cases involving exceptional circumstances).

The above conditions relating to at-call accounts are consistent with the recent changes to be introduced by APRA in respect of Religious Charitable Development Funds (**RCDFs**).

QB only promote their term investment offerings to Baptist parishioners via their communication and marketing to the churches and affiliates within the QB Group.

QB does not undertake marketing or promotion of the term investment offerings outside the QB Group.

The QB investor pool is made up of Baptist parishioners in Queensland who invest funds with QB to support the Baptist movement in Queensland generally or, subject to specific directions from that investor, a nominated Baptist church within the QB Group.

Submissions by QB

1. **That [CO 02/184] be renewed in its current form beyond the sunset date of 1 October 2016**

There has been over three years pass since CP207 was issued by ASIC in 2013.

Since that time for public consultation ASIC has delayed its consideration of the matter.

We have been provided by ASIC with a copy of ASIC's modified proposals by way of letter on 9 May 2016. However, there is still a consultation process which is occurring, albeit with direct organisations as opposed to public consultation, and it appears that there are still a range of issues for consideration by interested parties which should be available for submission and comment and this process appears unlikely to be completed before the sunset date of 1 October 2016.

It is QB's submission that the current exemption set out in RG87 and [CO 02/184], continue to be available to CIFs in its present form, which clearly includes the exemption from the Australian Finance Services (**AFS**) licensing requirements.

QB submits that the present exemptions provided by [CO 02/184] are effective and enable QB and other CIFs to promote their charitable objectives without undue or unnecessary regulatory burden. Further, as shown by the QB investment offering, QB disclose the applicable facts to investors about how their investments are treated and that they are not subject to ASIC or APRA or deposit taker approval or protection.

QB submits that ASIC's revised proposal that the exemption from the AFS licensing requirements should only apply if the CIF accepts investments only from associated clients, should be rejected.

Based upon its own dealings and experience as a CIF, QB considers that the ongoing exemption from the AFS licensing requirements will enable the CIFs to continue to promote their charitable and religious activities and objectives without the further administrative burden of holding an AFS licence.

In the alternative, if ASIC maintains the view that the exemption from the AFS licensing requirements should only apply if the CIF accepts investments only from associated clients, then QB submits that the proposed definition of "associated clients/entities" as outlined in "Proposal 1: Licensing" be amended to remove the exclusion of "other than individuals".

QB submits individuals who have a common charitable objective with the CIF, should fall within the definition of an associated entity. As set out in QB's investment term deposit products, it is clearly stated that the BapLink accounts and schemes are designed for investors who wish to promote the charitable purposes of QB and its constituted churches.

QB submit that to impose an AFS licence requirement and the need to provide a PDS or disclosure statement in addition to the account application, would be an additional administrative burden which does not add any greater disclosure or information than that which is already provided in QB's account opening form.

It is QB's submission that the existing disclosures and information contained in the QB account opening form provides sufficient clarity to investors.

The inclusion of individuals that have a common charitable objective with the CIF as associated entities is consistent with the approach adopted by APRA in the Revised Schedule of Conditions to apply to RCDFs under Exemption Order No 2 of 2015, which allows for RCDFs not to be authorised as ADIs under the Banking Act 1959.

APRA stated in its Response to Submissions dated 30 March 2016, that it was not APRA's intention to exclude RCDFs from offering a range of functionality to affiliates, including affiliates who are retail investors who could reasonably be expected to have a clear understanding of the nature and operations of the RCDF with whom they had an affiliation.

By allowing individuals who have the common charitable objective with the CIF to be included under the definition of associated entity, then this would achieve the common objective of allowing the CIF/ RCDF to continue to deal with its own affiliates/associated entities without the need for further regulation or licensing.

2. Submission on Proposal 2: Prohibition on issue of at-call or short term products

QB note the modification to ASIC's original proposal and that ASIC now propose that CIFs cannot assume an obligation of repayment within [14] days:

- (a) from 1 January 2017 in relation to any new retail, non-associated investors; and
- (b) on or after 1 January 2018 from any new investor (retail, wholesale or associated) who makes an investment in the CIF, if there are non-associated, retail investors in the CIF.

As you will note from the QB application form, QB have already adopted that approach in respect of at-call offerings to fixed term investments.

ASIC's approach is similar to that proposed by APRA in its Revised Schedule of Conditions.

Given that position, QB submits that this revised proposal is satisfactory, provided the definition of associated investor/entity is amended in the manner set out above so as not exclude individuals who have a common charitable objective with the CIF from being associated investors/entities.

Should you wish to discuss this submission or any of the matters raised, please contact the writer.

If preferred, QB would be happy to meet with ASIC directly to discuss its submission.

Yours faithfully

DibbsBarker



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Encl

cc: Andrew Duffy, ASIC