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Level 5, 100 Market Street
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Our ref Submission - CP 267 - Audit &
financial reporting relief

12 September 2016

Dear Doug

Consultation Paper 267: Remaking ASIC class orders and guidance on audit and financial reporting (CP 267)

Thank you for the opportunity to provide comments in relation to CP 267.

We agree that each class order is operating effectively and efficiently, and continue to form a necessary and useful part of the legislative framework, and support the remaking of the class orders detailed in CP267 as new legislative instruments. We do, however, wish to highlight a concern in the drafting of the wholly-owned companies instrument in the attached Appendix.

We would be pleased to discuss our comments with you or your staff. If you wish to do so, please contact me on (02) 9455 9744.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Voogt', with a long horizontal flourish extending to the right.

Michael J Voogt
Director

Appendix

Wholly-owned companies instrument

Our comment concerns the drafting of the new condition (p) – Bodies regulated by APRA.

We are generally supportive of the change to not allow companies which are regulated by APRA from obtaining relief made available by the proposed instrument.

The drafting of condition (p) requires that as at the end of a relevant financial year, no member of the extended closed group is to be a body regulated by APRA. The extended closed group is a wider group than just the closed group. The closed group are the entities which receive annual financial report preparation relief available under the proposed instrument.

The impact of the above would be that:

- if APRA regulated entities – who are not part of the closed group, but part of the extended closed group remain in the deed of cross guarantee, then
- all entities in the closed group (i.e. entities not regulated by APRA) will not be able to get the annual financial report preparation relief available under the proposed instrument.

Based on discussions we understand this was an intended outcome from the drafting process. KPMG is still discussing this issue with our client base to determine if this aspect will impact many groups. To date, we have not identified a wide spread impact – however we are still exploring the issue with clients.

We would recommend that any further communications by ASIC around the proposed instrument include some commentary making groups aware of the above consequence. It may be prudent to include a reminder for individual groups to review the current make-up of all entities in their extended closed groups to ensure all APRA regulated entities are removed.