

Macquarie Specialised Asset Management Limited

ABN 71 087 382 965
AFS Licence No. 241104

Macquarie Specialised Asset Management 2 Limited

ABN 50 075 295 608
AFS Licence No. 241404

A Member of the Macquarie Group of Companies

50 Martin Place
SYDNEY NSW 2000
GPO Box 4294
SYDNEY NSW 1164
AUSTRALIA

Telephone +61 2 8232 3333
Fax +61 2 8232 4713
Internet www.macquarie.com.au
DX 10287 SSE

CONFIDENTIAL

By email: james.grapsas@asic.gov.au; bunnary.ong@asic.gov.au

26 February 2021

James Grapsas, Senior Lawyer, Investment Managers Team
Bunnary Ong, Senior Analyst, ASIC Market Supervision
Australian Securities & Investments Commission
Level 5, 100 Market Street
SYDNEY NSW 2000

Macquarie Specialised Asset Management Ltd (AFS licence 241104)

Macquarie Specialised Asset Management 2 Limited (AFS licence 241404)

- (I) ASIC Consultation Paper 336 – Financial Requirements: Treatment of Lease Assets (“CP 336”)**
- (II) Our Letter of 14 April 2020**

We note that ASIC on 18 January 2021 released CP 336 to seek feedback on its proposal relating to the treatment of right-of-use assets for Australian financial services (“**AFS**”) licensees.

We understand that CP 336 proposes to amend the financial requirements for AFS licensees by allowing right-of-use assets arising from applying AASB 16 *Leases* to be included in the calculation of net tangible assets (“**NTA**”), adjusted surplus liquid funds and surplus liquid funds.

ASIC had previously communicated that the implementation of the new accounting standard, AASB 16 *Leases* may impact an entity's ability to meet its AFS financial condition requirement, as in ASIC's view, right-of-use assets are usually intangible assets.

As an AFS licensee's NTA equals its adjusted assets minus its adjusted liabilities; the calculation of adjusted assets includes subtracting 'excluded assets' from the value of total assets in the AFS licensee's balance sheet; and the definition of

None of the entities noted in this document is an authorised deposit-taking institution for the purposes of the Banking Act 1959 (Commonwealth of Australia). The obligations of these entities do not represent deposits or other liabilities of Macquarie Bank Limited ABN 46 008 583 542 (MBL). MBL does not guarantee or otherwise provide assurance in respect of the obligations of these entities.

'excluded assets' includes intangible assets, this meant that an AFS licensee may be unable to include a right-of-use asset in its adjusted assets. However, an AFS licensee will usually need to include the lease liability recognised under AASB 16 in its adjusted liabilities. This asymmetrical treatment of right-of-use assets and lease liabilities could impact an entity's ability to meet its AFS financial requirement.

Accordingly, we concur with the CP 336 proposal allowing right-of-use assets arising from applying AASB 16, to be included in the calculation of NTA, adjusted surplus liquid funds and surplus liquid funds, as it aims to correct the earlier asymmetrical treatment of right-of-use assets and related lease liabilities. We believe that this proposal will redress the above impact on an entity's ability to meet its AFS financial requirements.

Clarification Sought

ASIC Regulatory Guide 166 Licensing: Financial Requirements – Impact of Exclusion of Contract Assets from NTA Calculations

With reference to our letter to yourselves of 14 April 2020, we note that while CP 336 does not explicitly discuss the treatment of contract assets for the purpose of NTA calculation, we would be grateful if ASIC could also provide some guidance on the treatment of contract assets arising under AASB 15 *revenue from contract with customers*, and any tax liability that is recognised on such contract assets for NTA calculations.

Whilst we would appreciate such guidance, we re-confirm that MSAM and MSAM2 have excluded contract assets from our NTA calculations from the date of your 6 December 2019 media release. Also, tax liabilities on such contract assets have been considered in the assessment in ensuring compliance with the AFSL requirements.

Further information

Should you require further information about this matter you can contact Kean Hao Lim directly on 0408 526 014 or via email at kean.lim@macquarie.com.

Yours sincerely



Kean Hao Lim
Head of MAM Compliance APAC