

Australian Securities and Investments Commission
National Consumer Credit Protection Act 2009 –
Paragraphs 163(1)(a) and (d) – Exemption and Declaration
National Credit Code – Subsection 203A(1) - Exemption

Enabling power

1. The Australian Securities and Investments Commission (*ASIC*) makes this instrument under:
 - (a) paragraphs 163(1)(a) and (d) 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 found in Schedule 1 to the Act.

Title

2. This instrument is ASIC Instrument 22-0598.

Commencement

3. This instrument commences on 24 June 2022.

Exemptions

4. Perpetual Trustee Company Limited (ABN 42 000 001 007) in its capacity as trustee of the RESIMAC Triomphe Trust in respect of the Warehouse Series No.1 (*Perpetual*) and Resimac Limited (ABN 67 002 997 935) (*Resimac*) in acting as servicer under a servicing agreement with Perpetual do not have to comply with:
 - (a) Division 3 and Division 4 of Part 3-2 of Chapter 3 of the Act;
 - (b) Division 2 of Part 3-2A of the Act; and
 - (c) sections 14, 16 and 17 of the Code;in relation to a Redraw Facility Credit Contract.
5. Subsection 47(2) of the Code does not apply to Perpetual in relation to any Transferred Mortgage to the extent the Transferred Mortgage relates to a Redraw Facility Credit Contract.
6. Subsections 199(2) and (3) of the Code do not apply to Perpetual or to Resimac in relation to a Redraw Facility Credit Contract.

Where exemptions apply

7. Subject to paragraph 8, the exemptions in paragraphs 4, 5 and 6 apply in relation to the entry into by Perpetual of a Redraw Facility Credit Contract with a consumer where each of the following is satisfied:
 - (a) Resimac has entered into an agreement with Volt to purchase a credit contract portfolio (the *loan book*) consisting of existing credit contracts (*existing loan contracts*) under which Volt is the credit provider, and nominated Perpetual as Resimac's nominee to perform obligations under the agreement;
 - (b) under the agreement, the loan book is to be transferred by means of:
 - (i) legal assignment of debts under the existing loan contracts to Perpetual, which has the effect that Perpetual is the credit provider for the existing loan contracts for the purposes of the Act and the Code; and
 - (ii) entry into a Redraw Facility Credit Contract for each consumer that is a debtor under an existing loan contract, that will apply in conjunction with the existing loan contract; and
 - (c) subsection 188(2) of the Code applies to Perpetual in relation to the existing loan contracts; and
 - (d) Perpetual has entered an irrevocable deed poll for the benefit of, and enforceable by, both ASIC and consumers with whom Perpetual enters a credit contract as part of the purchase of the loan book which gives consumers a right to recover from Perpetual loss or damage that arises in relation to the Redraw Facility Credit Contract as a result of a contravention by Volt of the Act or Code obligations referred to in paragraphs 4, 5 and 6, as if Perpetual was an assignee of the Redraw Facility Credit Contracts from Volt under section 188(2) of the Code, other than that the consumer right to remedies may be limited:
 - (i) to set-off rights and amendments to terms and conditions under the Redraw Facility Credit Contract or the existing loan contract; and
 - (ii) by Perpetual's trustee limitation of liability requirements.

Conditions

8. The exemptions in paragraphs 4, 5 and 6 are subject to the condition that if Perpetual or Resimac relies on an exemption in paragraph 4, 5 or 6 in relation to a particular credit contract with a particular consumer, Perpetual or Resimac must:
 - (a) take reasonable steps to ensure that each consumer who is a party to the Volt Mortgage Loan is provided, within 30 days of the date on which the Volt Mortgage Loan is assigned and the Redraw Facility Credit Contract between the consumer and Perpetual is entered into, with a written statement that:

- (i) Perpetual has become the credit provider under the Volt Mortgage Loan;
 - (ii) explains the following:
 - (A) in relation to further advances available under the Volt Mortgage Loan, the Volt Mortgage Loan has been novated to Perpetual as the Redraw Facility Credit Contract;
 - (B) both the assigned Volt Mortgage Loan and the Redraw Facility Credit Contract are secured by the Transferred Mortgage; and
 - (C) any redraw or drawing of funds from an offset sub-account by a consumer will be taken as an indication that the consumer confirms the novation;
 - (iii) Perpetual has entered into the deed poll referred to in paragraph 7(d), and Perpetual will provide a copy of the deed poll to a consumer free of charge if requested;
 - (iv) sets out details of who the consumer should contact if the consumer suffers loss or damage in relation to a Redraw Facility Credit Contract;
 - (v) sets out an explanation of a consumer's rights generally under section 72 of the Code and details of who the consumer should contact if the consumer wishes to give a hardship notice; and
 - (vi) there will be no variation, under the transfer of the Volt Mortgage Loan from Volt to Perpetual, to the terms and conditions of the original Volt Mortgage Loan as they apply to the Redraw Facility Credit Contract, except that the credit provider under the contract will be Perpetual; and
- (b) take reasonable steps to ensure that a copy of Resimac's credit guide is provided with the statement referred to in paragraph (a).

Interpretation

9. In this instrument:

consumer has the meaning given in section 5 of the Act.

credit contract has the meaning given in section 5 of the Act.

mortgage has the meaning given in section 5 of the Act.

Redraw Facility Credit Contract means, in relation to a consumer, the credit contract between a consumer and Perpetual arising from obligations under the Volt Mortgage

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Loan to which the consumer is a party being novated from Volt to Perpetual (except to the extent that Volt's rights under the Volt Mortgage Loan are assigned to Perpetual).

Transferred Mortgage means a mortgage that secures a Volt Mortgage Loan and which is transferred to Perpetual.

Volt means Volt Bank Limited (ABN 67 622 375 722).

Volt Mortgage Loan means a credit contract between Volt and a consumer that has been assigned and novated to Perpetual as nominee of Resimac under a sale and purchase agreement dated 17 June 2022 between Volt and Resimac.

Dated this 24 day of June 2022



Signed by Felicity Natoli

as a delegate of the Australian Securities and Investments Commission