



FILE No:

DOC:

MARS/PRISM:

**ASIC**

Australian Securities & Investments Commission

Level 18, No.1 Martin Place, Sydney  
GPO Box 9827 Sydney NSW 2001  
DX 653 Sydney

Telephone: (02) 9911 2000  
Facsimile: (02) 9911 2333

Our ref:

10 December 2007

David Hatfield  
A/g General Manager, Adjudication Branch  
Australian Competition & Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

Dear David

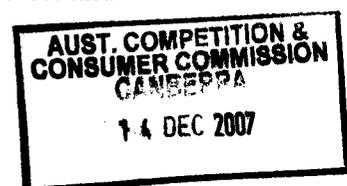
***Financial services exclusive dealing notification N93141-Virgin Money  
Australia, N93142- Virgin Money Financial Services and N93168-Commonwealth  
Bank of Australia***

I refer to your letter of 23 October 2007 and subsequent telephone discussions between Greg Kirk of the Australian Securities and Investments Commission (ASIC) and Gavin Jones of your office.

On behalf of ASIC, I welcome the opportunity to comment on these notifications. ASIC does not intend to express a general position on the notifications, but rather to raise factual considerations that may be relevant to the ACCC's decision making process.

**Notification N93168 (Commonwealth Bank)**

We note that the Commonwealth bank seeks to require brokers to be accredited with SEQUAL in order to introduce customers seeking the bank's reverse mortgage product. In ASIC's view there are potential benefits for consumers in this arrangement. ASIC has produced two public reports (2005 and 2007) highlighting issues for consumers in taking out a reverse mortgage. Both reports are available on our website. At present, whilst the more general consumer protection provisions in the ASIC Act and in the various state Fair Trading Acts do apply, there is no specific regulation of reverse mortgages as a product nor of intermediaries who advise consumers in relation to them. The Uniform Consumer Credit Code has some application but its disclosure regime does not address all of the issues reverse mortgages raise, most particularly the risks associated with compounding interest and



no regular repayments, risks that do not arise in relation to other credit products. In relation to intermediaries there are current proposals for state based regulation of brokers and in fact draft legislation was recently released for public consultation.

In this environment the additional requirements that would be imposed on brokers through having to be accredited by SEQUAL are significant, in particular the requirement to participate in an ASIC approved EDR scheme as well as complying with minimum standards and training requirements in the provision of advice. ASIC is not aware of any other industry association specific to the reverse mortgage product.

**Notification N93141 (Virgin Money Australia)**

In relation to the application by Virgin Money (Australia) Pty Limited and Virgin Money Financial Services Pty Limited, we assume from the fact that you have allocated two Notification numbers, and despite the conflation of what appear to be two separate issues in the application, that what they are seeking is to require

- (a) brokers introducing credit business to Virgin Money (Australia) Pty Limited to be members of the Mortgage and Finance Association of Australia (MFAA); and
- (b) Authorised Representatives (as defined in section 761A of the Corporations Act) introducing superannuation business to be members of the Association of Super Funds of Australia (ASFA).

Our comments below are premised on that understanding.

Virgin Money Australia seeks to require brokers introducing credit business to be members of the Mortgage and Finance Association of Australia. As outlined above, intermediaries in relation to credit are currently unregulated although there are current proposals to regulate them at the state level. In that context we consider that dealing with a broker that is a member of the MFAA provides potential benefits to consumers, particularly in terms of access to IDR and EDR, training standards and the MFAA Code of Practice. ASIC is aware of another industry body for brokers, the Finance Brokers Association of Australia. In that context we would draw your attention to previous comments we have made to the ACCC in relation to the differing approaches of the two industry bodies (see ASIC's letter of 30 March 2007 in relation to Notification N92787).

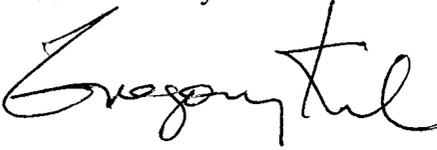
**Notification N93142 (Virgin Money Financial Services)**

It appears that Virgin Money Financial Services intends to appoint authorised representatives to provide customers with information about Virgin Super and to require them to be members of ASFA. The Corporations ACT 2001, does regulate the activity of such intermediaries and in particular sets standards for training and competency, disclosure and advice. It also mandates the provision of IDR and EDR. Accordingly relative to the other applications it is less clear what additional benefits are provided to consumers by requiring authorised representatives introducing superannuation business to Virgin Money Financial Services to be members of ASFA.

We trust these comments will be of assistance to the ACCC in assessing these notifications.

Please contact Gregory Kirk on (02) 9911 2073 if you have any further queries.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gregory Kirk', written in a cursive style.

Greg Kirk  
Director, Compliance & Campaigns  
Consumer Protection