



**Australian  
Competition &  
Consumer  
Commission**

**Our Ref:** A91118  
**Contact Officer:** Monica Bourke  
**Contact Phone:** 02 6243 1351

27 January 2008

This letter with enclosures  
was sent to the  
attached list of  
interested parties on  
27.1.09

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GPO Box 3131  
Canberra ACT 2601  
23 Marcus Clarke Street  
Canberra ACT 2601  
tel: (02) 6243 1111  
fax: (02) 6243 1199  
www.accc.gov.au

Dear Sir/Madam

**Mortgage and Finance Association of Australia (MFAA) application for revocation and substitution A91118 – interested party consultation**

The Australian Competition and Consumer Commission (the ACCC) has received an application for revocation and substitution from the Mortgage and Finance Association of Australia (MFAA). The ACCC invites you to comment on the application. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

**Previous authorisations**

In 2004, the MFAA (then the Mortgage Industry Association of Australia) was granted authorisation for its Disciplinary Rules. In 2005 the MFAA sought authorisation for minor variation to its Rules. The ACCC granted authorisation to the revised Disciplinary Rules with the exception of Rules 3.2.1, 4.7.1A, 4.7.3 and 4.8.3 which were not considered to be minor.

**The application for revocation and substitution**

The MFAA is seeking reauthorisation for the MFAA Disciplinary Rules. The Disciplinary Rules are part of the regime governing the conduct of MFAA members. The Disciplinary Rules outline the processes for investigation of complaints, expulsion of members and refused applications for membership or accreditation. They provide for the Board to appoint Investigation Officers and for the establishment and the rules of the MFAA Tribunal.

A full copy of the application for authorisation is available on the ACCC's website <[www.accc.gov.au](http://www.accc.gov.au)>. Alternatively, you can contact Monica Bourke on 02 6243 1351 to obtain a hard copy of the application and submission.

**Interim authorisation**

The current authorisation granted to the MFAA expires on 19 February 2009. The MFAA has made a request for interim authorisation to be granted to the Disciplinary Rules before the current authorisation expires.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

### **Request for submissions**

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the Disciplinary Rules. In particular, you may wish to comment on the following rules which have been amended since the ACCC last considered this matter:

- (a) Rule 2.2.7 which states that a member who refuses to cooperate with the Investigation officer may be guilty of Misconduct and subject to the Disciplinary Rules
- (b) Section 2.4 which relates to added Rules regarding a Notice of Alleged Misconduct and Investigation Report to be produced where an investigating officer considers that a member may have engaged in misconduct
- (c) the ability of the Board to act under the Constitution to suspend, censure or expel any member irrespective of any determination or other action which may be taken as provided by Rule 4.7.1A
- (d) Section 4.7 relating to the powers of the Tribunal
- (e) The Tribunal's ability to make retrospective decisions with respect to penalties provided by Rule 4.8.3.

If you intend to provide a submission in relation to MFAA's application for revocation and substitution, please do so by **Monday 23 February 2009**. Submissions in relation to interim authorisation should be provided by **Monday 9 February 2009**.

Alternatively, if you would like to provide comments orally, please contact Monica Bourke on 02 6243 1351 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

### **Timetable**

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

<b>21 January 2009</b>	Lodgement of application and supporting submission.
<b>27 January 2009</b>	Public consultation process begins.
<b>9 February 2009</b>	Closing date for submissions on interim authorisation.
<b>February 2009</b>	ACCC decision regarding interim authorisation.
<b>23 February 2009</b>	Closing date for submissions from interested parties.
<b>March 2009</b>	Applicant responds to issues raised in the public consultation process.
<b>April/May 2009</b>	Draft determination.
<b>May 2009</b>	Public consultation on draft determination including any conference if called.
<b>June/July 2009</b>	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the application at the draft and final determination stages. If you are able to please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Monica Bourke on 02 6243 1351.

Yours sincerely



Shane Chisholm  
Acting Director  
Adjudication Branch

## **Interested parties consulted on 27.01.09**

Council of Small Business Organisations of Australia  
Financial Services Consumer Policy Centre, Law Faculty  
CHOICE  
Consumer Credit Legal Centre (NSW) Inc  
Consumer Credit Legal Service (WA)  
Consumers' Federation of Australia  
Department of Justice  
Office of Consumer and Business Affairs, Attorney-General's Department  
Office of Consumer Affairs and Fair Trading  
Department of Justice and Community Safety  
Consumer Affairs Victoria  
Department of Tourism, Racing and Fair Trading  
Department of Consumer and Employment Protection  
Australian Securities and Investments Commission  
Australian Prudential Regulation Authority  
Australian Bankers' Association  
Investments and Financial Services Association Ltd  
Department of the Treasury  
Department of Innovation, Industry, Science and Research  
Mortgage Choice Limited  
St George Bank  
Abacus  
Australian Association of Permanent Building Societies  
Aussie Home Loans  
Office of Fair Trading  
Consumer Action Law Centre  
Finance Brokers Association of Australia