



AUST. COMPETITION &
CONSUMER COMMISSION
SYDNEY
25 NOV 2011

ASIC

Australian Securities & Investments Commission

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Your Ref: N94386, N95514 & N95590

25 November 2011

Ms Rose Webb
Executive General Manager
Mergers and Adjudication Group
Australian Competition & Consumer Commission
GPO Box 3648
SYDNEY NSW 2001

FILE No:
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Dear Ms Webb

Exclusive dealing notifications lodged by Blue Bay Finance Corporation Pty Ltd (N94386), Bank of Western Australia Ltd (N95514) and Australian Finance Group Ltd (N95590)

Thank you for your letter dated 28 October 2011 about these exclusive dealing notifications lodged with the ACCC.

All three notifications claim that the proposed exclusive arrangements will assist consumers who may not otherwise have sufficient savings to secure finance for a home of their choice, by providing the opportunity to qualify for loans with higher loan-to-valuation ratios (LVRs) than are generally available in the current mortgage market.

However, we note that according to recent research from Rate City, available LVRs are now higher than have been offered in more than two years and the "Majority of loans offer 95 percent LVR, and range up to 98 percent".¹

As early as 6 June 2011, Rate City reported that the number of lenders offering home loans with a maximum LVR of 97% had doubled since January 2011. Home loans with a maximum LVR of 97% (including offerings from major banks) made up 5 percent of all home loans in Rate City's database.²

It is our understanding that construction loans at comparably high LVRs are also available, although they may be offered by fewer lenders.

Although higher LVR loans may enable borrowers to secure larger loans, the impact on a borrower who seeks to refinance, or defaults following a downturn in the property market, is likely to be more severe with higher LVR loans since there is a greater likelihood that the borrower will have negative equity.³

Blue Bay Finance Corporation Pty Ltd, Bank of Western Australia Ltd and Australian Finance Group Ltd all hold Australian Credit Licences (Nos. 389250, 236872 and 389087 respectively) and their credit activities are therefore subject to the responsible lending and disclosure obligations under National Consumer Credit Protection Act 2009(National Credit Act) including the National Credit Code (NCC).

The NCC largely replicates the previous state and territory based Uniform Consumer Credit Code, which promoted consumer protection through 'truth in lending' via pre-contractual disclosure. This disclosure enables consumers to make informed decisions when choosing credit products.

The relative price of a product is a prominent element in such decisions, and the NCC provides specific requirements on how annual interest rates, fees and commissions must be disclosed by credit providers to assist consumers in making such decisions.

The National Credit Act has introduced additional disclosure obligations for holders of Australian Credit Licences. These obligations include the provision of credit guides, quotes and/or credit proposal disclosure documents which provide further detail about the fees and commissions which may be payable.

In addition, from 1 January 2012, home loan lenders will have to provide potential borrowers with a Home Loan Key Facts Sheet (KFS) - a one-page document using standard definitions which is intended to assist consumers to better compare the costs and features of different home loans. For example, a KFS will specify how much a potential borrower would repay over the life of their loan for every \$1 they borrow .

If the proposed exclusive dealing arrangements impact on and obscure the stand alone price of specific home loans, they could potentially undermine the intent of the disclosure regime.

I trust this information is of assistance. Please contact Peter Hewitt on 08 9261 4242 if you would like to discuss the contents of this letter.

Yours faithfully



Greg Kirk
Senior Executive Leader, Deposit Takers, Credit & Insurers

1. <http://www.ratecity.com.au/media-room/>, 13 October 2011. "Lenders loosen the purse strings for spring".
2. <http://www.ratecity.com.au/media-room/>, 6 June 2011. "Lenders loosen belt on mortgage criteria".
3. <http://www.ratecity.com.au/media-room/>, 16 November 2011. "Refinancers could be in for nasty shock".