



Our Ref: N92787, N93141, N93142, N93186,  
N93329  
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24 November 2011

Phil Naylor  
Chief Executive Officer  
Mortgage and Finance Association of Australia  
PO Box 604  
Neutral Bay NSW 2089

*Sent via email: [phil@mfaa.com.au](mailto:phil@mfaa.com.au)*

Dear Mr Naylor

**Various third line forcing notifications involving the Mortgage and Finance Association of Australia – Interested party consultation**

As you may be aware, various finance businesses currently have third line forcing notifications in place with the Australian Competition and Consumer Commission (the ACCC) under which they require brokers to be a member of the Mortgage and Finance Association of Australia (MFAA).

The ACCC has decided to undertake a review of these notifications involving the MFAA. Specifically:

- N92787 lodged by AHL Investments Pty Ltd (Aussie Home Loans)
- N93329 lodged by Mortgage Choice Limited
- N93141 & N93142 lodged by Virgin Money Australia and Virgin Money Financial Service
- N93186 lodged by ING Bank Australia Ltd.

The purpose of this letter is to invite you to comment on these notifications. Attached, for your information, is a summary of the notification process, additional information on the notifications, and a description of how to make a submission to the ACCC.

### *The notification process*

Notification provides protection from legal action for conduct that might otherwise raise concerns under the competition provisions of the *Competition and Consumer Act 2010* (the Act). Broadly, the ACCC may allow a third line forcing notification to stand if it is satisfied that the likely benefit to the public arising from the conduct will outweigh the likely detriment to the public arising from the conduct.

The protection afforded by a third line forcing notification arises 14 days after the notification is lodged with the ACCC. The ACCC may revoke a third line forcing notification at any time if it determines that the conduct to which the notification relates no longer delivers a **net** public benefit.

### *Notifications involving the MFAA*

The ACCC is undertaking a review of the following notifications:

<b>Date lodged</b>	<b>Notification number</b>	<b>Applicant</b>	<b>Proposed Conduct</b>	<b>Date legal protection commenced</b>
2 February 2007	N92787	AHL Investments Pty Ltd (Aussie Home Loans)	AHL Investments Pty Limited proposes to require that its mortgage advisers (franchisees, contractors and their sales employees or contractors) join the MFAA.	16 February 2007
5 and 9 October 2007	N93141 & N93142	Virgin Money (Australia) Pty Ltd & Ors	Virgin Money Australia and Virgin Money Financial Services propose to require brokers and authorised representatives to maintain membership of the MFAA and the Association of Superannuation Funds Australia.	19 October 2007
29 October 2007	N93186	ING Bank (Australia) Limited	ING Bank (Australia) Limited proposes to engage introducers to introduce prospective borrowers to it on condition that the introducer undertakes training conducted by the Mortgage and Finance Association of Australia.	12 November 2007
4 March 2008	N93329	Mortgage Choice Limited	Mortgage Choice proposes to require franchisees and loans consultants to take out and maintain full membership status with the MFAA	18 March 2008

Copies of these notifications, supporting submissions and other related correspondence are available on the ACCC's public register, [www.accc.gov.au/ExclusiveDealingRegister](http://www.accc.gov.au/ExclusiveDealingRegister), and by searching for the relevant notification number in the search box.

### ***Request for submissions***

To assist the ACCC in its review of the notifications, the ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the notified conduct.

In particular, the ACCC is interested in comments on the following:

1. whether the balance of public benefits and detriments arising from the notifications has changed given the implementation of the credit licensing regime under the *National Consumer Credit Protection Act 2009*
2. Any other issues the ACCC may wish to consider in relation to the proposed conduct.

If you intend to provide a submission in relation to the notifications, it would be appreciated if you could do so by **23 December 2011**.

Submissions may be emailed to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) or mailed to GPO Box 3131, Canberra, ACT 2601. Alternatively, if you would like to provide comments orally, please contact this office to arrange a time to do so.

Please note that any submissions received will be placed on the ACCC's public register, subject to any request for exclusion (guidelines are attached).

A copy of 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 Pamela Cue on (02) 6243 1066.

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch