



Our Ref: N92787, N93141, N93142,
N93186, N93329
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Dear Sir / Madam

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

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) as a condition of engagement.

The ACCC is currently undertaking a review of these notifications involving the MFAA. Specifically:

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

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:

Date lodged	Notification number	Applicant	Proposed Conduct	Date legal protection commenced
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 which is located at 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 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).

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

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

This letter has been sent to approximately 70 interested parties, comprising relevant Government agencies, participants in the industry, previous complainants to the ACCC and interested parties from previous consultation undertaken with respect to the notifications involving the MFAA.

These interested parties include the following:

1. ABACUS Australian Mutuals
2. ANZ Bank
3. Australian Prudential Regulation Authority
4. Australian Securities and Investments Commission
5. Association of Financial Advisers
6. Aussie Home Loans
7. Australian Consumers Association (CHOICE)
8. Australian Financial Markets Association
9. Australian Institute of Chartered Accountants
10. Australian Institute of Professional Brokers
11. Bank of Queensland
12. Bankers Association of Australia
13. Commonwealth Bank of Australia
14. Commercial Asset Finance Brokers Association of Australia Ltd
15. Council of Small Business Organisations of Australia
16. FAST Group
17. Financial Brokers Association of Australia
18. Financial Services Council
19. HSBC Bank
20. Independent Finance Brokers Alliance
21. ING Bank
22. Macquarie Bank
23. Mortgage & Finance Association of Australia
24. Mortgage Choice
25. NAB
26. PLAN Australia
27. St George
28. Treasury
29. Virgin Money Group
30. Westpac Bank