



28 November 2003

The Secretary
Senate Economics Committee
Parliament House
CANBERRA ACT
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Submission by Credit Union Services Corporation (Australia) Ltd

Credit Union Services Corporation (Australia) Limited (CUSCAL) makes the following submission to the Senate Economics Committee in relation to:

- Government amendments to the FSR Amendment Bill 2003;
- Corporations Amendment Regulations 2003 (No. 8) as contained in Statutory Rules 2003 No. 282; and
- Batch 6 of the Corporations Amendment Regulations (draft regulations).

CUSCAL is the main industry body and commercial services provider for Australian credit unions. CUSCAL is owned by, and provides services to, 159 of Australia's 181 credit unions. Credit unions have 3.5 million members and total assets of \$28.6 billion.

All credit unions require an Australian Financial Services Licence (AFSL) because, under the FSR regime, even the smallest credit union is at least "dealing in a financial product".

At least 50 credit unions already have obtained AFSLs and we anticipate the vast majority of credit unions will obtain their licences in December. These AFSLs will commence in the weeks leading up to 11 March 2003. It is important to note that FSR obligations apply when the licences commence and credit union AFSLs are commencing well ahead of 11 March 2004.

As we advised the Committee in our 18 July 2003 submission on the Bill in its original form, CUSCAL supports the legislation and urges the Senate to pass it without delay.

We thank the Senate and the Committee for expediting this inquiry.

Credit unions need certainty about the definition of 'basic deposit product', about what documents require an AFSL number, and about the nature of the breaches of legislation that must be reported to ASIC.

These matters are dealt with in the Bill.

As Authorised Deposit-taking Institutions (ADIs), the business of credit unions is taking deposits from members on an at-call or fixed-term basis. The terms and conditions of these deposit products have very different FSR compliance implications depending on final scope of the definition of 'basic deposit product' in the Corporations Act 2001.

FSR compliance issues include disclosure documents, training and supervision of staff, and authorisation of representatives.

We have not identified any problems with the Government's amendments to the FSR Amendment Bill 2003 or batches 5 and 6 of the FSR regulations that would prompt us to change our view on the need for the legislation to be passed as soon as possible.

To the extent they are relevant to credit unions, the amendments and regulations are generally realistic and sensible and serve to clarify the operation of the FSR regime.

We have identified two issues in the Batch 6 draft regulations but neither issue raises a question about the legislation.

Breach reporting

Proposed regulation 7.6.02A lists Commonwealth Acts that are subject to the breach-reporting obligation (s912D). The first Act listed is the *Banking Act 1959*.

We believe the relevant financial services laws should be limited to those laws administered by ASIC.

As we have advised Treasury, we are not convinced there is any benefit in requiring AFSL holders to report to ASIC breaches of laws administered by APRA. The response to any breach of a law administered by APRA is best determined by the prudential regulator, APRA, rather than the disclosure-oriented regulator, ASIC.

In our view it would be preferable for APRA to decide what breaches are relevant to ASIC and to notify ASIC about them. We can see no justification for ADIs to report the same information to both regulators.

AFSL numbers on periodic statements

Proposed regulation 7.6.01C(2) specifies 1 July 2004 as the date from which AFSL numbers must be included on periodic statements. This will allow licensees some months to deplete existing stocks of stationary. However, this draft regulation appears to conflict with regulation 10.2.44A(3). The corresponding date in regulation 10.2.44A(3) is 11 March 2005.

Yours sincerely

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