



Banking exemption No. 3 of 2014

Banking Act 1959

I, Sarah Goodman, a delegate of APRA, under subsection 11(1) of the *Banking Act 1959* (the Act), DETERMINE that sections 7 and 8 of the Act do not apply to the class of persons described in the attached Schedule, while this determination continues in force, AND under paragraph 11(2)(c) of the Act, I make this determination subject to the conditions specified in the attached Schedule of conditions.

This determination commences on the date it is registered on the Federal Register of Legislative Instruments and continues in force until 31 December 2014, unless earlier revoked or varied by further determination.

Dated: 13 October 2014

[Signed]

Sarah Goodman
Executive General Manager
Supervisory Support Division
APRA

Interpretation

Document ID: 214612

In this determination

APRA means the Australian Prudential Regulation Authority.

person in accordance with section 22 of the *Acts Interpretation Act 1901*, includes a body corporate as well as an individual.

Federal Register of Legislative Instruments means the register established under section 20 of the *Legislative Instruments Act 2003*.

Note 1 This determination is a legislative instrument (see subsection 11(6) of the Act).

Note 2 Under subsection 11(3) of the Act, a person is guilty of an offence if the person does or fails to do an act and doing or failing to do that act results in a contravention of a condition to which an order under section 11 is subject (being an order that is in force and that applies to the person). The penalty is 200 penalty units or, by virtue of subsection 4B(3) of the *Crimes Act 1914* in the case of a body corporate, a penalty not exceeding 1,000 penalty units. By virtue of subsection 11(3A) of the Act, an offence against subsection 11(3) is an indictable offence. Under subsection 11(3B) of the Act, if a person commits an offence against subsection 11(3), the person is guilty of an offence against that subsection in respect of the first day on which the offence is committed and each subsequent day (if any) on which the circumstances that gave rise to the person committing the offence continue (including the day of conviction for any such offence or any later day).

Schedule - the class of persons to whom this determination applies

1. Section 7 of the *Banking Act 1959* does not apply to a person who is a controlling entity of a fund in the list below; and
2. Section 8 of the *Banking Act 1959* does not apply to a fund that is a body corporate, or a body corporate that is a controlling entity of a fund, in the list below:
 - Anglican Funds – South Australia
 - Anglican Community Fund (Inc) (previously known as Anglican Deposit Fund Perth (Inc))
 - Anglican Development Fund – Gippsland
 - Anglican Development Fund (Diocese of Melbourne)
 - Anglican Development Fund (Diocese of Tasmania)
 - Anglican Development Fund Diocese of Bathurst
 - Anglican Financial Services (ANFIN) (Diocese of Brisbane)
 - Anglican Investment and Development Fund
 - Anglican Managed Investments Fund Diocese of Bathurst
 - Anglican Savings and Development Fund Diocese of Newcastle
 - Archdiocese of Adelaide – Catholic Development Fund
 - Archdiocese of Brisbane – Archdiocesan Development Fund (or The Corporation of the Trustees of the Roman Catholic Archdiocese of Brisbane)
 - Archdiocese of Canberra and Goulburn – Catholic Development Fund (or The Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn (ACT) & (NSW))
 - Archdiocese of Hobart – Catholic Development Fund
 - Archdiocese of Melbourne – Catholic Development Fund
 - Archdiocese of Perth – Catholic Development Fund
 - Archdiocese of Sydney – Catholic Development Fund (or The Trustees of the Roman Catholic Church for the Archdiocese of Sydney)
 - Armidale Diocesan Investment Group
 - Assemblies of God in Australia Ltd
 - Baptist Financial Services Australia Limited
 - Catholic Development Fund Diocese of Port Pirie
 - Centenary Development Foundation
 - Christian Outreach Centre
 - Churches of Christ Building Extension Mutual Fund Incorporated
 - Diocesan Development Fund – Anglican Diocese of Bendigo
 - Diocesan Development Fund (Diocese of Armidale)
 - Diocese of Ballarat – Catholic Development Fund
 - Diocese of Bathurst – Catholic Development Fund
 - Diocese of Broken Bay – Catholic Development Fund (or Trustees of the Roman Catholic Church for the Diocese of Broken Bay)
 - Diocese of Bunbury – Catholic Development Fund

- Diocese of Cairns – Catholic Development Fund (or The Roman Catholic Trust Corporation for the Diocese of Cairns)
- Diocese of Darwin – Diocesan Development Fund (or Catholic Church of the Diocese of Darwin Property Trust – Darwin Diocesan Development Fund)
- Diocese of Lismore – Diocesan Investment Fund (or The Trustees of the Roman Catholic Church for the Diocese of Lismore)
- Diocese of Maitland – Newcastle – Catholic Development Fund (or The Trustees of Church Property for the Diocese of Newcastle)
- Diocese of Parramatta – Diocesan Development Fund
- Diocese of Rockhampton – Diocesan Development Fund
- Diocese of Sale – Catholic Development Fund
- Diocese of Sandhurst – Diocesan Development Fund
- Diocese of Toowoomba – Diocesan Development Fund
- Diocese of Townsville – Diocesan Development Fund
- Diocese of Wagga Wagga – Diocesan Provident Fund (or The Trustees of the Roman Catholic Church for the Diocese of Wagga Wagga)
- Diocese of Wollongong – Catholic Development Fund
- EFKS Financial and Investment Services
- Glebe Income Accounts (Anglican Church Diocese of Sydney)
- Lutheran Lay People’s League of Australia Incorporated
- National Spiritual Assembly of the Baha’is of Australia Incorporated – Baha’i Investment Fund
- Riverina Anglican Development Fund
- Stewards’ Foundation of Christian Brethren
- Temple Society Australia
- The Baptist Union of Queensland
- The Churches of Christ Property Trust
- The Corporate Trustees of the Diocese of Grafton – Grafton Diocese Investment Fund
- The Properties Corporation of the Churches of Christ
- The Uniting Church in Australia Property Trust (SA)
- The Uniting Church Investment Service
- UCA Funds (incorporating UCA Cash Management Fund Limited, UCA Growth Fund Limited, UCA Funds Management Limited, the Development Fund, The Uniting Church in Australia Property Trust (Victoria) and the Funeral Fund)
- Uniting Church in Australia Synod of Western Australia Uniting Church Investment Fund
- Uniting Financial Services (incorporating The Uniting Church (NSW) Trust Association Limited, The Uniting Church in Australia Property Trust (NSW), the Funeral Fund and the Self– Help Fund)
- Wangaratta Anglican Development Fund

Definitions

In this Schedule:

controlling entity means a person or body corporate who or which is a trustee of, or otherwise concerned in the management of, a fund.

Schedule of conditions

1. The Fund must be and continue to be:
 - (a) recognised at law as being formed for religious and charitable purposes stated in a trust deed, ordinance or other foundation document governing the Fund (Fund constitution); and
 - (b) limited to the purposes stated in the Fund constitution; and
 - (c) operated not-for-profit.
2. The Fund's financial products must have the sole or dominant intention of furthering the religious and charitable purposes of the Fund.
3. A copy of the Fund constitution setting out the Fund's religious and/or charitable purpose/s must be available for inspection on request by APRA.
4. The Fund or its controlling entity must not offer via the Fund:
 - (a) cheque account facilities unless the account holder is:
 - (i) a body constituted by or under the authority of a decision of the central governing body of a related religious organisation; or
 - (ii) a body in relation to which the central governing body of a related religious organisation is empowered to make ordinances or other binding rules; or
 - (iii) a person acting as a trustee of a trust for or for the use, benefit or purposes of a related religious organisation; or
 - (iv) an employee of a body mentioned in subparagraphs (i) to (iii) above who receives their stipend or remuneration via an account of the Fund; or
 - (b) Electronic Funds Transfer at Point Of Sale (EFTPOS) facilities; or
 - (c) Automatic Teller Machine (ATM) facilities.
5. The Fund or its controlling entity must in all cases ensure that advertising and marketing material of the Fund contains clear and prominent disclosures (the required disclosures) to the effect that:
 - (a) neither the controlling entity nor the Fund is prudentially supervised by APRA; and
 - (b) contributions to the Fund do not obtain the benefit of the depositor protection provisions of the *Banking Act 1959*; and
 - (c) the Fund is designed for investors who wish to promote the charitable purposes of the Fund.
6. The Fund or its controlling entity may advertise and market the Fund on-line or in print produced by or under the auspices of the controlling entity (or the religious institution that established the Fund). All advertising and marketing material of the Fund must contain the required disclosures outlined in condition 5.