

IN-CONFIDENCE

Date: 13 June 2011

LA-7-24-1-1

To: John Park

From: Andre Anderson

RETAIL DEPOSIT GUARANTEE SCHEME - EQUITABLE MORTGAGES - CROWN DISCRETION – FAMILY TRUSTS

Claimant: Various

Amount: Various

Issue: Where the relevant trust deed includes a non-charitable entity as a (potential) beneficiary, a family trust may not fall within the scope of the Crown Nomination for the trustees of family trusts, dated 3 June 2011 (the "Nomination").

Crown discretion: Where one or more beneficiaries of a trust are ineligible, the trustees of that trust are not excluded from being a Creditor if the Crown, in its sole and unfettered discretion, gives notice in writing to those trustees that they are a Creditor, having had regard to:

- (i) the identity and nature of each of the beneficiaries (where known); and
- (ii) how many of those beneficiaries (where known) would be Creditors if the Principal Debtor had a direct obligation to pay money (whether present or future) to each of them.

Considerations: Under the terms of the Nomination, the first generation of beneficiaries of a family trust (who established it) must be fully eligible, and each of the children of the first generation must also be fully eligible. But it's possible for all the other beneficiaries to be ineligible, without that preventing the family trust from being a Creditor.

The eligibility of a non-charitable entity as a beneficiary raises no additional concerns as compared to the eligibility of those beneficiaries whose eligibility has already effectively been waived under the terms of the Nomination.

Decision-maker: John Park, Manager, Deposit Guarantee Scheme

Date: 13 June 2011

Decision: The trustees of a family trust who otherwise fall within the terms of the Nomination are a Creditor for the purposes of each Crown guarantee to which the Nomination applies, even if the beneficiaries of that family trust include a non-charitable entity (whether that entity is incorporated or unincorporated and whether it's a potential discretionary beneficiary or has already been formally appointed as a beneficiary).

Signature:

