



FINANCIAL SERVICES FEDERATION

30 June 2017

The Policy Manager
Inland Revenue
PO Box 2198
Wellington 6140

For: Mr Peter Frawley / Erica Burke
By email: Erica.burke@ird.govt.nz

Dear Mr Frawley,

Taxation of corporate securitisations

Thank you for your letter dated 7 June 2017, inviting the Financial Services Federation (“FSF”) to comment on the proposal to extend the Income Tax Act provisions about corporate securitisations in the way outlined by your letter.

As background, the FSF is the industry body for the responsible and ethical finance and leasing providers of New Zealand. We have over fifty members and associates providing financing, leasing, investment, banking and insurance services to more than 2 million New Zealanders. Our affiliate members include internationally recognised legal and consulting partners. A list of our members is attached as Appendix A.

Of those members, only a small number presently operate securitisation programmes, and not all of them are “financial institutions” as defined in the Income Tax Act to whom sections HR9 and HR10 of that Act apply.

The FSF member that operates a securitisation programmes and who is a “financial institutions” as defined in the Income Tax Act (as they are a Non-Bank Deposit Taker) is comfortable with the way that those sections presently apply to them, and in principle have no difficulty with the idea that those provisions might in future also apply to other entitles that are not “financial institutions” as thus defined.

The position of FSF members that operate securitisation programmes but who are not are “financial institutions” for the purposes of the Income Tax Act (as they are not Non-Bank Deposit Takers) is slightly different, because they are not sure if the changes that are proposed by your letter would apply to their existing securitisations or not. The FSF assumes that legislation giving effect to the proposals in your letter would only be prospective in nature, and would not apply to existing securitisations that are not already subject to sections HR9 and HR10.

If the proposals might in fact apply to such existing securitisations, the FSF and those members in particular would be concerned, as they would then need advice from their tax advisers as to how the proposals might impact on their securitisation programmes, if at all. That would be costly, particularly if the result was that existing securitisation structures or the operation of them needed to change due to the proposals.

The members in question have not yet sought such advice, and would hope it may not ultimately be necessary for them to do so if legislation giving effect to the proposals was to be prospective in nature, and applied only to future securitisations. The FSF would accordingly be grateful if you could advise if the proposals are likely to apply only to future securitisation structures.

The FSF would also request that you clarify what is being referred to in the last paragraph on page 1 of your letter which refers to –

“Officials consider that the rules may also be need to be amended to ensure that an additional requirement of recourse to the originator be included.”

The FSF is also unsure if that change would be intended only to be prospective in nature, or whether it might also apply to existing securitisation structures? The FSF would expect such a change would only be prospective, but would be grateful if you could clarify that too please, so that affected members can consider that further as may be necessary.

The FSF trusts that its above comments are helpful, and looks forward to clarifications where they have been requested above.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'L. McMorran', with a small flourish at the end.

Lyn McMorran
EXECUTIVE DIRECTOR

Membership List as at 7th June 2017

Appendix A

Debenture Issuers - (NBDT) Non-Bank Deposit Takers	Vehicle Lenders	Finance Company Diversified Lenders	Credit Reporting Other	Insurance	Affiliate Members
<u>Rated</u> Asset Finance (B) Flexi Cards (BB+)	BMW Financial Services Branded Financial Services Community Financial Services Go Cars Finance Ltd European Financial Services	L & F Holdings (Trading as Advaro Limited) Avanti Finance Caterpillar Financial Services NZ Ltd Centracorp Finance 2000	VEDA Advantage <u>Debt Collection Agencies</u> Baycorp (NZ) Consumer Credit Management Limited	Autosure Pioneer Finance Protecta Insurance Provident Insurance Corporation Ltd Southsure Assurance	American Express International (NZ) Ltd AML Solutions Buddle Findlay Chapman Tripp EY Finzsoft KPMG PWC SimpsonWestern
<u>Non-Rated</u> Mutual Credit Finance Gold Band Finance Limited	Honda Financial Services Ltd Mercedes-Benz Financial Services Motor Trade Finance Nissan Financial Services NZ Ltd Onyx Finance Limited Toyota Finance NZ Yamaha Motor Finance <u>Leasing Providers</u> Custom Fleet Fleet Partners NZ Ltd ORIX NZ SG Fleet Lease Plan	Finance Now Future Finance Geneva Finance Home Direct Instant Finance John Deere Financial Latitude Financial Personal Finance Ltd South Pacific Loans The Warehouse Financial Services Group Thorn Group Financial Services Ltd Turners Finance Limited	Dun & Bradstreet (NZ) Limited Centrix		(Total : 56 members)