

**Submission to Inquiry into Drought Support by Productivity Commission
by Rural Financial Counselling Service-Victoria-North Central (RFCS Vic NC)**

Following representation at a Roundtable undertaken by the Commission in Mildura and a request from commissioners we provide information for consideration.

The Rural Financial Counselling Program has undertaken considerable change over the last two years. It has been totally restructured into State and or Regional organisations, has strengthened governance, management and administration processes and generally become more professional. Most of this has been driven by the Department of Agriculture, Fisheries and Forestry (DAFF) but in Victoria's case, strongly supported by the State Department of Primary Industries. (DPI)

In recent times DAFF have refocused the role of Rural Financial Counsellors to one of the Case Management of clients as they support them to make complex decisions about their futures and then to implement any changes. This will include:

- an assessment of the clients situation,
- referral to additional supporting agencies, Government Departments or private consultants,
- advocacy or support of clients in discussions with creditors,
- the development of future options often with the referral to technical expertise,
- additional information that will clarify opportunities, and
- ongoing support as changes are implemented by them, modification to farming systems, restructure of the farming operation or exiting from agriculture.

In many ways this is a return to the way most experienced counsellors operated in times before the introduction of Exceptional Circumstances. Since then the demand on counsellors' time for assistance in applying for Government Support Programs, particularly Interest Rate Subsidies, has seen less or little time to follow through with clients. An increase in the number of counsellors over the last year has allowed the Providers to again consider a more holistic service under the case management approach that concentrates on achieving outcomes for both our clients and funding bodies.

We acknowledge it is very important that the RFC program acts as a conduit to refer rural families to other providers of support as part of their case management role. This requires an investment in time spent networking to identify and liaise with agencies at a local level. In Victoria's case support by DPI to fund Senior RFC Co-ordinators with each of the States' five services will almost guarantee a strengthening of these arrangements.

One issue of concern to our Service is the question whether the counsellors in undertaking their role are providing "advice". In the recent past counsellors have provided information and assessments by way of outlining "options" to their clients. Over the last few years DAFF have promoted the program as a "no advice" service. This was largely in response to the passing of the Financial Services Act of 2001 tightening the provision of "financial advice" However in December of 2003 the Australian Securities and Investments Commission (ASIC) recognised the constraints this placed on the work of financial counsellors generally and issued Class Order 03/1063 that gazetted "Licensing Relief to Financial Counselling Services" (see copy attached)

In the introduction the Class Order states it;

"provides licensing relief for financial counselling agencies that may provide financial product advice in the course of providing a financial counselling service.

This relief is subject to certain conditions including requirements that:

- *no fees or charges are payable by the client for any aspect of the service;*
- *a financial counsellor is appropriately trained to carry out the service; and*
- *a financial counsellor is a member of, or is eligible for membership of, a relevant financial counselling association.*

This relief is designed to facilitate the professional delivery of financial counselling services to consumers in financial difficulty."

The Review of the RFCS program in 2004 raised some doubts about whether the program met all the conditions and no doubt took that into consideration in its recommendations. Hence the restructure mentioned earlier.

It is our contention, at least in the case of RFCS Vic NC, and we imagine it's true of other services, that we now meet all conditions. We are members of Financial Consumer Rights Council of Victoria, our counsellors have the qualifications, (Diploma of Community Services -Financial Counselling,) we are a community non profit organisation that offers a free service, does not receive kick backs from anyone, and we do not provide advice about specific financial products.

It is important to state however that any "advice" that we might give in future is qualified. We are qualified as counsellors, not accountants, or tax agents, or financial planners. We are not there to take work off country based accountants or other professionals but to work with them, with our clients who are facing financial difficulties. It is an objective of the program to empower families to be self reliant of Government support.

Additionally a number of our counsellors also hold qualifications in personal counselling, receive professional supervision on an as needs basis, are continually mentored, monitored and performance managed. As a service we are in a position to embrace case management. However it will take some time to transition from the concentration on EC work to a case management approach and for clients to understand.

We have concerns about the recommendation in the Expert Social Panel Report suggesting a name change by the removing the term "counselling". We would contend that "the service" is widely known by that term, it accurately describes what we should do, and that as such it is helping to break down any suspicions held by rural people, particularly farmers, to seek help from agencies offering support in difficult times.

A further initiative we support is the mutual obligation conditions of any income support for farmers. As is the case with Transitional Income Support (TIS) we are well qualified to support families make informed decisions through case management.



ASIC

Australian Securities & Investments Commission

[CO 03/1063]

Licensing relief for financial counselling agencies

Issued 8/12/2003

Gazetted 16/12/2003: ASIC Gazette 50/03

Class Order [CO 03/1063] provides licensing relief for financial counselling agencies that may provide financial product advice in the course of providing a financial counselling service.

This relief is subject to certain conditions including requirements that:

- *no fees or charges are payable by the client for any aspect of the service;*
- *a financial counsellor is appropriately trained to carry out the service; and*
- *a financial counsellor is a member of, or is eligible for membership of, a relevant financial counselling association.*

This relief is designed to facilitate the professional delivery of financial counselling services to consumers in financial difficulty.

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraph 911A(2)(l) — Exemption

Under paragraph 911A(2)(l) of the *Corporations Act 2001* (the “Act”), the Australian Securities and Investments Commission exempts a person (the “financial counselling agency”) from the requirement to hold an Australian financial services licence for the provision of a financial service to another person (the “client”) where all of the following apply:

- (a) the financial service consists only of either or both of the following:
 - (i) financial product advice in relation to any or all of the following:
 - (A) a deposit product;

- (B) a facility for making non-cash payments within the meaning of subsection 763D(1) of the Act;
 - (C) an insurance product;
 - (D) an RSA product;
 - (E) a superannuation product;
- (ii) financial product advice to the client to the effect that the client should or may consider the disposal of, or dispose of, a financial product held by the client of any or all of the following kinds:
 - (A) a security;
 - (B) a financial product referred to in paragraphs 764A(1)(b) or (ba) of the Act;
 - (C) a debenture, stock or bond issued by a government;
- (b) the financial service is provided as part of a financial counselling service;
- (c) no fees or charges (however described) are payable by or on behalf of the client in relation to the financial service or any other aspect of the financial counselling service;
- (d) no remuneration (whether by way of commission or otherwise) is payable to or on behalf of the financial counselling agency, their representatives or other associates by any person in relation to any action by or on behalf of the client arising from either the financial service or any other aspect of the financial counselling service;
- (e) the financial counselling agency:
 - (i) does not carry on or otherwise participate in a financial services business which involves the provision of a financial service that is not covered by paragraphs (a) to (d); and
 - (ii) takes all reasonable steps to ensure that none of its representatives provides or participates in the provision of a financial service that is not covered by paragraphs (a) to (d);
- (f) the financial counselling agency takes all reasonable steps to ensure that each person who provides the financial services on its behalf:

- (i) is a member of, or is eligible to be a member of, a financial counselling association; and
- (ii) has undertaken appropriate training to ensure that they have adequate skills and knowledge to satisfactorily provide the financial services and any other aspect of the financial counselling service.

Note: By s 911B(1)(e) of the Act, a person providing a financial service on behalf of a financial counselling agency is exempt from the requirement to hold an Australian financial services licence for the provision of the service if the agency would have been so exempt under this instrument, had the agency provided the service.

Interpretation

In this instrument:

“deposit product” has the meaning given by section 761A of the Act;

“financial counselling association” means each of the following:

- (a) Australian Financial Counselling and Credit Reform Association Inc;
- (b) Financial and Consumer Rights Council Vic Inc;
- (c) Financial Counsellors’ Association of N.S.W. Inc;
- (d) Financial Counsellors’ Association of Western Australia Inc;
- (e) Financial Counsellors’ Association Queensland Inc;
- (f) Financial Counsellors’ Credit Reform Association Northern Territory;
- (g) South Australian Financial Counsellors’ Association Inc;

“financial counselling service” means a counselling and advocacy service provided predominantly for the purposes of assisting individuals who are in financial difficulty due to circumstances such as debt over-commitment, unemployment, sickness or family breakdown;

“financial product advice” has the meaning given by section 766B of the Act;

“insurance product” has the meaning given by section 761A of the Act;

“representative” has the meaning given by section 910A of the Act;

“RSA product” has the meaning given by section 761A of the Act;
and

“superannuation product” has the meaning given by section 761A of
the Act.

Commencement

This instrument commences on gazettal.

Dated this 8th day of December 2003

Signed by Brendan Byrne
as a delegate of the Australian Securities and Investments
Commission