

Spiliopoulos, Maria

From: Plain, Stewart
Sent: Wednesday, 23 December 2020 2:34 PM
To: [REDACTED]
Subject: Competitive neutrality complaint against the Australian Business Growth Fund [SEC=OFFICIAL]
Attachments: ABGF_2020 Dec 21_Formal CN Complaint to Productivity Commission.pdf

OFFICIAL

Hi [REDACTED]

As discussed, on Monday 21st December 2020 the Australian Government Competitive Neutrality Complaints Office (AGCNCO) received a formal competitive neutrality (CN) complaint against the Australian Business Growth Fund. That complaint was from On-Market Bookbuilds P/L (attached).

The AGCNCO's preliminary investigations of the issues raised by the complaint indicated that it:

- is not better handled by another body
- does not relate to competitive neutrality policies that are being finalised or are currently the subject of review by government
- is not vexatious
- raises issues of substance and with non-trivial resource allocation effects.

The AGCNCO therefore considers there are no grounds for not accepting the complaint and, accordingly, has accepted On-Market's complaint for investigation.

The AGCNCO normally aims to complete its investigations within 90 days. However, the AGCNCO is mindful that this investigation will have to contend with the disruption to normal business activities around Christmas and a very heavy workload dealing with another CN complaint investigation. In view of these circumstances, finalising our investigation may well take longer than usual 90 day completion time.

The reason I have contacted you regarding the complaint is that it refers to APRA's apparent obligation (as specified in section 8(2) of its Act) to consider competitive neutrality in performing and exercising its functions and powers. And that 'exercising its functions and powers' appears to have included conferring preferential capital treatment of investments in the Australian Business Growth Fund (ABGF) (see [here](#)). The complaint alleges that this preferential regulatory treatment confers a material competitive advantage on the ABGF.

This regulatory advantage, the complaint alleges, means that the ABGF — which is a business subject to the Australian Government's competitive neutrality policy (see Treasury advice [here](#)) — is operating in breach of its obligation for regulatory neutrality under that policy (p. 18, [here](#)) and as indicated by the *Australian Government Competitive Neutrality Guidelines for Managers* (pp. 27-8, [here](#)).

The AGCNCO's investigation of the complaint, though, will not get underway until early in the new year.

When the investigation does gets underway, we will probably need to discuss this matter with you and/or request specific information. However, at this stage — when we don't know what we don't know — it is premature to foreshadow what sort of information we might be seeking.

I am available to discuss our investigation with you at any time up to the period from 25 December to 4 January, and thereafter when I return to the office.

Kind regards

Stewart

Stewart Plain | Director

Australian Government Competitive Neutrality Complaints Office

Productivity Commission

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