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Financial Services and Credit Reform Green Paper  
Corporations and Financial Services Division  
Treasury  
Langton Crescent  
PARKES ACT 2600

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## **The Federal Government's Green Paper on Financial Services and Credit Reform**

Dear Sir,

Outlined below is Perpetual Limited's (Perpetual) position in relation to the following topics discussed in the Green Paper, released by the Department of Treasury on 3 June 2008:

1. Mortgage Brokers,
2. Trustee Corporations,
3. Margin Loans, and
4. Debentures.

### **1. Mortgage Brokers**

Whilst Perpetual itself does not participate in brokering mortgages it does have significant exposure to mortgage brokers through its Corporate Trust operating division. Perpetual is of the view that a licensing regime, regulated by a suitable government body operating in unison with existing industry bodies, should be implemented in respect of mortgage broking practitioners. This would serve to improve the protection available to consumers, and to enhance the integrity of the mortgage broking market through greater disclosure and monitoring of industry practice.

Perpetual is also of the belief that the Uniform Consumer Credit Code (UCCC) should be replaced with a national code.

### **2. Trustee Corporations**

Perpetual is well placed to comment in relation to reforms targeted at trustee corporations given its long history as a provider of traditional trustee services. We welcome the agreement reached at the recent Commonwealth Heads of Government (COAG) meeting which paves the way for the Commonwealth to assume responsibility for the regulation of trustees.

Perpetual agrees that the existing regulatory framework places an unnecessary burden on trustee corporations given the scope of inconsistencies in regulatory requirements under the current fragmented framework. Furthermore a single licensing regime for trustee corporations should promote a more competitive market place as barriers preventing trustees from operating nationally would be removed.

In relation to the two regulatory options proposed in the Green Paper, Perpetual strongly endorses a regulatory framework supervised by ASIC. Perpetual believes that ASIC would prove to be a more appropriate option for the following reasons:

- § The objective of the regulation should be to protect the interests of the beneficiaries and as such is more akin to that of consumer based protection,
- § ASIC's current modus operandi is to protect the interests of consumers,

- § ASIC would be more likely to focus on the best interests of trust beneficiaries,
- § A number of synergies could be realised if trustee licensing were to be based on the existing financial services licensing framework, and
- § ASIC has significantly more experience in overseeing disclosure documentation.

Perpetual is currently subject to regulatory oversight from both ASIC and the Australian Prudential Regulatory Authority (APRA). Perpetual considers that prudential regulation, whilst effective in ensuring stability within the economy at an industry and entity level, is not ideally suited to consumer protection.

Further to comments pertaining specifically to the Green Paper, Perpetual would like to take the opportunity to suggest other improvements to the regulation of trustee corporations, including:

- § Trustee corporations should have standing to be appointed solely as administrators,
- § Fees charged by trustee corporations should be deregulated and not subject to statutory caps,
- § Clarification in respect of defining fees and distinguishing them from expenses would be of benefit,
- § The operation of Common Funds and their relationship with managed investment schemes should be defined, and
- § Trustee corporations should be allowed to invest in their own investment products or those of related party products provided sufficient controls are in place to safeguard the best interests of consumers and are disclosed appropriately.

A more detailed submission is attached on this and the following aspects of the reform prepared by the Private Wealth Division of Perpetual.

### **3. Margin Loans**

Perpetual does not enter into margin loans or permit its custodians to enter into stock loans over domestic securities of which we are the beneficial owner. Perpetual does recognise that margin lending can be used for legitimate risk management purposes, but believes such practices should be subject to strict disclosure and monitoring obligations.

### **4. Debentures**

Perpetual's comments in regards to enhancing the regulatory framework do not broadly differ from those expressed by the Trustee Corporations of Australia. In essence Perpetual is supportive of:

- § Harmonising the regulation of promissory notes so that all promissory notes issued to retail investors are captured under the term debenture and as such debenture regulatory framework,
- § Require that all trustees of debenture issues should be licensed by ASIC, and
- § Mandate that debenture issuers are licensed by ASIC.

Further to the above Perpetual would be receptive to ASIC providing further clarity regarding the role of the debenture trustees as outlined in its Regulatory Guide 69: Debentures – improving disclosure for retail investors. Secondly Perpetual is of the belief that more stringent requirements should be placed on auditors in respect of reviewing the financials of debenture issuers.

Should you have any queries please do not hesitate to contact me on 02 9229 3339.

Yours sincerely

**Ivan Holyman**  
Chief Risk Officer