



**Australian Banking Association –  
Application for authorisation AA1000475  
Interim authorisation decision  
20 March 2020**

**Decision**

1. The Australian Competition and Consumer Commission (the **ACCC**) has granted interim authorisation in respect of the application for authorisation AA1000475, lodged by the Australian Banking Association (the **ABA**) on 19 March 2020.
2. The ABA has applied for authorisation on behalf of its retail member banks to agree and implement a support package for small business customers experiencing financial difficulties as a result of COVID-19 (**small business relief package**).
3. The ACCC has granted interim authorisation to enable member banks to:
  - agree to the terms of the small business relief package
  - make the changes and enhancements to the systems and processes required, and
  - implement the package as soon as possible.
4. A key feature of the small business relief package is the deferral of principal and interest repayments for all term loans and retail loans of a small business customer for 6 months (interest will be capitalised), where an eligible customer has advised their Participating Member bank that its business is affected by COVID-19.
5. Details of the small business relief package are outlined below.
6. Interim authorisation commences immediately and remains in place until it is revoked or the date the ACCC's final determination comes into effect.

**The application for authorisation**

7. The ABA seeks authorisation to allow member banks to agree and implement the small business relief package if, and when, they elect to do so. Authorisation is sought on behalf of its Member Banks, their subsidiary banks and any banks that may become an ABA member in the future. Annexure 1 contains the list of current Member Banks.
8. At the time of lodging the application for authorisation, the following Member Banks have, subject to the ACCC granting interim authorisation, indicated their commitment to implementing the small business relief package:
  - AMP Bank
  - Australia and New Zealand Banking Group Limited
  - Bank Australia
  - Bank of Queensland Limited
  - Bendigo and Adelaide Bank Limited
  - Commonwealth Bank of Australia

- HSBC
- Macquarie Bank
- National Australia Bank Limited
- Suncorp Bank
- Westpac Banking Corporation

**(Participating Member Banks)**

9. The ABA is seeking authorisation for twelve months from the ACCC's grant of final authorisation.

**The small business relief package**

10. The small business relief package:

- includes a deferral of principal and interest repayments for all term loans and retail loans of a **small business customer** for 6 months (interest will be **capitalised**); and
- will be open to all **current small business customers** of a Participating Member Bank, where the customer has advised that its business is affected by COVID-19, in all sectors of the economy, and on an **opt-in basis**.

11. In implementing the small business relief package, Participating Member Banks will apply the following definitions and criteria:

- a **small business** is defined in the Banking Code of Practice (amended for context) as if, at the time of applying for the relief, it has less than \$3 million total debt to all credit providers including:
  - any undrawn amounts under existing loans;
  - any loan being applied for; and
  - the debt of all its related entities that are businesses;
- **current small business customer** means small businesses who have an existing indebtedness with the Participating Member Bank and who are current in terms of their repayments on the existing facility from 1 January 2020;
- **opt-in basis** means that small business customers will be required to contact Participating Member Banks to indicate that they would like their term and retail loan account principal and interest repayments to be deferred on application from the customer; and
- customers will self-assess whether their businesses have been impacted by COVID-19 and no further verification will be required – if the other criteria mentioned are met customers will be entitled to relief under the small business relief package on application; and
- **capitalising the interest** means that Participating Member Banks will, based on existing loan terms in the context of customers' requirements, either:
  - extend the term of the loan repayment to account for the interest incurred during the deferral period and keep the level of repayments following the deferral the same as that which the customer had paid prior to deferral; or
  - increase the level of the loan repayments to account for the interest incurred during the deferral period, but keep the term of the loan repayment the same as if the deferral had not occurred.

12. Participating Member Banks will not apply or require a payment of the capitalised interest in a lump sum at the end of the deferral period.
13. The ABA advises that:
  - Participating Member Banks will make the small business relief package available to customers as soon as Participating Member Banks have indicated to their customers that their internal programs and systems to offer the package have been put in place.
  - Any customer of a Participating Member Bank that is entitled to relief under existing hardship programs, retains that entitlement, in addition to any entitlement under the small business relief package.

### **The authorisation process**

14. Authorisation provides protection from legal action for conduct that may otherwise breach the competition provisions of the *Competition and Consumer Act 2010* (Cth) (the **Act**). Broadly, the ACCC may grant authorisation if it is satisfied that the benefit to the public from the conduct outweighs any public detriment, including from a lessening of competition. The ACCC conducts a public consultation process to assist it to determine whether proposed conduct results in a net public benefit.

### **Interim authorisation**

15. The ACCC may, where it considers it appropriate, grant an interim authorisation which allows parties to engage in proposed conduct while the ACCC is considering the substantive application.
16. The ABA requested urgent interim authorisation due to the rapidly deteriorating global and Australian economic context caused by COVID-19, declared by the World Health Organisation to be a global pandemic and resulting in a reduction in supply and demand for goods and services, significant deterioration in cash flow, increases in debt and tightening of credit. The ABA submits that relief is urgently required to enable Participating Member Banks to urgently offer to assist affected small business customers.

### **Consultation**

17. The ACCC has not conducted a public consultation process in respect of the request for interim authorisation in light of the urgent need for the banks to have a relief package in place in the context of the unprecedented circumstances impacting the economy and the compelling nature of the public benefits likely to result from the request for interim authorisation.
18. The ACCC will conduct a public consultation process on the substantive application for authorisation in the coming days, and details regarding how to make a submission will be available on the [ACCC's authorisations public register](#).

### **Reasons for decision**

19. In granting interim authorisation, the ACCC recognises the urgency of the request for interim authorisation in light of the significant challenges that small businesses are facing due to the COVID-19 pandemic.
20. The ACCC understands that Member Banks are individually implementing their existing hardship programs however enabling Participating Banks to offer a small business relief package with minimum features and consistent messaging will assist small businesses during this time.
21. The ACCC considers that:
  - It is unlikely that interim authorisation will materially alter the competitive dynamics in any market, and markets will be able to return to substantially their current state once the emergency circumstances subside. In particular:

- the small business relief package is a temporary measure and applies in respect of current loans,
  - banks are individually able to offer terms more favourable than those the subject of authorisation. The ABA advises that several Participating Member Banks have indicated a willingness to independently offer relief that extends beyond the scope of the small businesses relief package, and
  - all ABA Member Banks are able to offer the package. In this regard, 9 major and regional banks have already indicated an intention to offer the small business relief package.
- There are likely to be significant public benefits in the current unprecedented emergency circumstances, including:
    - Urgently assisting small businesses experiencing financial difficulties by providing short term relief. In this regard the ABA submits that the definition of small business that it has proposed will capture 98 per cent of all small businesses in Australia, and that a significant number of those small businesses are customers of member banks who have indicated their willingness to commit to the small businesses relief package.
    - Enabling a consistent and extensive industry wide communications plan to be run by the ABA and Member Banks which will provide small businesses with a better understanding as to how they can access support due.
    - Assisting eligible businesses to remain viable and continue to employ their workers.
    - The process for an eligible customer to opt-in to access the small business relief package will be simple and accessible, including online and/or call centre registration. The ABA advises that front line staff will be authorised to offer and implement the package to all eligible small business customers without further assessment being required.

### **Reconsideration of interim authorisation**

22. The ACCC may review a decision on interim authorisation at any time, including in response to feedback raised following interim authorisation. The ACCC's decision in relation to the interim authorisation should not be taken to be indicative of whether or not the final authorisation will be granted.

**Current ABA member banks with a retail banking presence in Australia**

- AMP Bank Limited
- Australia and New Zealand Banking Group Limited
- Arab Bank Australia Limited
- Bank Australia
- Bank of China
- Bank of Queensland Limited
- Bank of Sydney
- Bendigo and Adelaide Bank Limited
- Citigroup Pty Ltd
- Commonwealth Bank of Australia
- HSBC Bank Australia Limited
- ING Bank (Australia) Limited
- Macquarie Bank Limited
- ME Bank
- MyState Bank
- National Australia Bank Limited
- Rural Bank Limited
- Rabobank Australia Limited
- Suncorp Bank
- Westpac Banking Corporation