



12 June 2020

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(Sent by email)

Dear Mr Mullen and Mr Maybury

Australian Banking Association application for authorisation AA1000482 – response to submissions

We refer to:

- the ACCC's letter dated 2 June 2020 inviting a response to submissions received from the Consumers Federation of Australia (**CFA**) in relation to the ABA's application for authorisation (AA1000482) (**ABA application**); and
- the ACCC decision granting interim authorisation dated 30 March 2020 (**interim authorisation**).

The ABA sets out below its responses to the CFA submission dated 1 May 2020 below, using the headings from the submission for ease of reference.

Consumer benefit

The ABA notes the CFA's submission that the requirement in the interim authorisation that any Proposed Conduct (as defined in the interim authorisation) must benefit customers should be replicated in the final authorisation and confirms that it is the ABA's intention that all financial relief packages and measures implemented by member banks under the interim (and final) authorisation will be for the benefit of customers.

The ABA wishes to clarify, for the avoidance of doubt, that the ABA application seeks authorisation for three purposes:

- deferring or varying loan facilities for customers in any sector of the economy or any customer segment impacted by COVID-19.
- supporting Government initiatives to provide emergency fiscal stimulus and cost relief for individuals and businesses; or
- ensuring continued high levels of customer service and access to banking services across the broadest possible range of times and locations.

Financial relief program

Consultation with consumer representative groups

The ABA recognises the important role that consumer representative groups play in the development of customer support and relief programs. The ABA actively seeks input from consumer groups on all



initiatives that impact customers wherever practicable, noting that where there is an urgent need to put in place measures to enable support or relief, timing constraints can limit the ABA's ability to do so.

As mentioned in the CFA submission, the ABA has established the Consumer Outcomes Group, a joint bank and consumer representative forum for discussing and responding to existing and emerging issues to improve consumer outcomes in retail banking. The group is comprised of seven bank representatives and seven consumer representatives and meets on a quarterly basis. The group has played an important role in the development of the ABA and member banks' response to COVID-19, including the development of members' position on credit reporting during banks' deferrals of loan repayments arising from COVID-19.

The ABA and member banks will continue to engage with consumer representative groups within the forum of the Consumer Outcomes Group and separately (eg. where initiatives require consultation with representative groups representing the interests of particular classes of consumers) as part of its development of any further relief programs and measures to respond to the impact of COVID-19. However, there may be circumstances where certain measures are required to be introduced urgently and where taking the time required for consultation may not be possible.

The ABA considers that imposing a requirement to consult with consumer representative groups about the design of financial relief programs and reporting on the extent and outcome of such consultation as a condition of the final authorisation:

- is not required, given the extent of consultation that occurs as a matter of course; and
- may, in circumstances where financial relief programs are required urgently, hamper member banks' ability to move quickly to support customers as they did when implementing the small business and supplementary business relief programs.

Member banks' approach to credit reporting

The CFA submission notes member banks' approach to credit reporting in relation repayment deferrals announced by the ABA on 6 April 2020. As part of the ABA and member banks' response to COVID-19 and in consultation with consumer representative groups as part of the ABA's Consumer Outcomes Group, member banks reached a common approach to credit reporting in relation to existing customers of each member bank who are granted a repayment deferral:

- if a customer was up to date with their mortgage or other credit product repayments at the time that deferral was granted, member banks will report customers as not having missed a repayment; and
- a customer was already behind on their mortgage or other credit product repayments when they are granted a deferral due to COVID-19, member banks will not report the repayment history information, and leave the field blank for the duration of the deferral period. When the COVID-19 repayment deferral period has ended, banks will each determine how to report the repayment history information.

Reporting to credit bureaus of credit information of existing customers who have been granted deferrals on their mortgage or credit repayments is not an activity in respect of which member banks are relevantly competitive with one another. The credit reporting arrangement does not involve any conduct that would require authorisation from the ACCC and was therefore not notified to the ACCC under the interim authorisation.

The ABA and its member banks take compliance with the Competition and Consumer Act 2010, and the terms of the interim authorisation, very seriously. The ABA recognises the importance of transparency to the ACCC and the public of the financial relief and other programs implemented under the interim authorisation and is committed to notifying (and seeking approval where required) any conduct that is undertaken pursuant to the terms of the interim (and final) authorisation.



Reporting on initiatives

As part of its commitment to educate customers and provide transparency to the public on the relief measures available from member banks (whether developed collectively or individually by each member bank), the ABA has developed a separate COVID-19 webpage (available at <https://www.ausbanking.org.au/covid-19/>), which provides a summary of:

- a description of the key relief measures available.
- links to member banks' websites for further information on their individual support programs.
- statistics on member banks' activity during COVID-19 which is updated on a weekly basis, and includes:
 - the total number of loans deferred, split between mortgage and business loans
 - the total value of loans deferred, split between mortgage and business loans
 - the total value of new business loans granted vs loan deferrals; and
 - the total value of new business loans granted to sole traders, SMEs and corporations.

While the direct impact of COVID-19 may be lessening across Australia, the financial impacts continue to evolve and, in some regards grow as deferral periods and Government support packages come to an end. Member banks continue to operate in demanding conditions as they respond to customer demand for relief under existing relief packages and other hardship programs and continue to identify and develop new potential measures to support customers as the current support measures come to an end.

The ABA and member banks also have reporting obligations to government and various regulators relating to their COVID-19 response. The administrative burden of extracting and collating several types of data to respond to various reporting requirements and information requests while prioritising the implementation of relief programs and development of new potential programs is significant.

The ABA does not consider that a condition of final authorisation requiring reporting on the outcomes of these initiatives is required given the level of public transparency that already exists. Imposing a further condition, requiring reporting in relation to particular metrics, would place a further and unnecessary administrative burden on the ABA and member banks.

Application of authorisation to suppliers and/or agents

The ABA confirms that the ABA application contemplates the authorisation only applying to suppliers and/or agents of member banks where the proposed conduct is for the purpose of ensuring continued high levels of customer service and access to banking services across the broadest possible range of times and locations. This is also consistent with the ABA's understanding of the operation of the interim authorisation and any final authorisation.

Access to banking services

The ABA confirms that as a condition to the interim authorisation, ACCC approval is required where the proposed conduct is for the purpose of ensuring continued high levels of customer service and access to banking services across the broadest possible range of times and locations and where it involves:

- an agreement, arrangement or understanding between two or more member banks and one or more supplier(s) or agent(s); and



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- the supplier or agent competes with Member Banks in relation to any relevant products or services, or where two or more suppliers or agents party to the agreement, arrangement or understanding compete with each other in relation to any relevant products or services.

The ABA's understanding of its engagement with the ACCC in relation to the interim authorisation (and any final authorisation) is that a non-confidential version of any final notification or application for approval submitted to the ACCC will be placed on the public register.

The ABA refers to its submission above as to why a condition requiring a description of the extent and outcome of any consultation with consumer representative groups is not necessary in relation to an application for approval of conduct involving suppliers and/or agents.

The ABA would be happy to provide any further information required.

Yours sincerely,



Jerome Davidson
Director, Legal Affairs