

Naomi Menon
Director
Competition Exemptions,
Australian Competition & Consumer Commission
Lonsdale Street Melbourne VIC

22 May 2023

By email: exemptions@accc.gov.au

Dear Ms Menon

**APPLICATION FOR AUTHORISATION AA1000640 – COMMONWEALTH BANK AND ORS
INTERESTED PARTY CONSULTATION (THE APPLICATION)**

1. The Mortgage and Finance Association of Australia (**MFAA**) appreciates the opportunity to make a submission with respect to the Application.
2. The MFAA is the peak industry body for the mortgage and finance broking industry with over 14,500 members. Our members include mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry.
3. Our role as an industry association is to provide leadership and to represent its members' views. We do this through engagement with governments, financial regulators and other key stakeholders on issues that are important to our members and their customers. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.
4. There are more than 19,000 brokers in Australia, many of which are small broking businesses. Mortgage and finance brokers play a critical role in intermediated lending, providing access to credit and promoting choice in both consumer and business finance. Mortgage and finance brokers facilitate more than two thirds of all new residential home loans¹ and approximately four out of ten small business loans² in Australia and are therefore significantly important to facilitating competition in both the home lending and business lending markets.

OUR SUBMISSION

5. We refer to the application for authorisation from the Commonwealth Bank, Westpac Banking Corporation, Australia and New Zealand Banking Group Limited, National Australia Bank

¹ [MFAA Industry Intelligence Service Report 15th Edition](#) pg 4

² Productivity Commission research paper [Small business access to finance: The evolving lending market](#) pg 44

Limited and Macquarie Bank Limited (**the Applicants**) with respect to the establishment of a voluntary industry-wide lender/aggregator assurance program (**the Assurance Program**).

6. The Applicants are each a member of the MFAA and all are participants of the MFAA's National Lender Forum, a forum comprising fourteen lender members from major banks, mid-tier banks (including mutuals) and non-bank lenders which distribute their products through the broker channel.
7. Similarly, the MFAA's National Aggregators Forum provides a platform for larger mortgage aggregators to discuss key issues facing the industry as a whole and to assist the MFAA in considering potential solutions. Almost all aggregators named in Schedule 2 of the Application are MFAA members.
8. The National Aggregator Forum and the National Lender Forum are bound by strict competition law protocols.
9. Evolvement of the notion of an industry-wide assurance program developed through conversations facilitated by the MFAA at the National Lender Forum and the National Aggregator Forum to address the multiple review programs occurring within industry. These lender review programs geminated as a result of both the increased regulation applying to the mortgage and finance industry and increased requirements on lenders to manage their third-party risk obligations. Observations made in relation to these programs were that there was similarity and duplication between the multiple programs conducted by different lenders. The main aspects of these reviews related to broker accreditation and onboarding processes, licensing, regulatory requirements with respect to brokers including responsible lending and more recently best interest duty and remuneration reforms.
10. As noted in the Application, aggregators operate as a single point of contact between large numbers of brokers and lenders. Aggregators are effectively the central service providers for brokers, providing access to accreditation services, training, and compliance services for broking businesses. Brokers utilise the services of aggregators to enable them to conduct their broking businesses, with aggregators providing a range of support services including commission platforms, marketing, and administrative services as well as compliance services. Brokers can be credit representatives of aggregators or are credit licensees, however the services provided by aggregators to brokers are generally consistent across these two licensing arrangements.
11. The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry resulted in significant additional regulation introduced into the mortgage and finance broking industry. As well, there has been increasing prudential requirements on ADIs for example, the new Prudential Standard CPS 230 for Operational Risk Management which requires ADIs to manage operational risks associated with material service providers (which includes brokers). We expect there to be a continued increase in regulation for the sector in coming years, for example through proposed privacy reforms and the extension of the reference checking protocol. Consequently, the breadth, depth and frequency of audits will likely continue to increase.
12. As an industry body, we note that our members often raise with us the tremendous regulatory burden placed on financial firms resulting from the increase in regulation in recent years. This increase in regulatory requirements has in turn increased operating costs for many organisations within the sector. In our view, regulators should seek to encourage industry to consider innovative ways to comply with the increased regulation and consequential oversight obligations. The Assurance Program provides an opportunity to alleviate some of those costs associated with the increased compliance burden in an innovative way.

13. As such consultation with our Lender and Aggregator Forum members indicated support for the benefits of the program on the expectation that a single independent coordinated program would materially lessen the number of audits and assurance activities currently undertaken and experienced by industry participants. This is expected to lead to corresponding benefits, being a reduction of cost and duplication and an increase in efficiencies.
14. We note that participation in the Assurance Program is on an opt-in basis, with an option and choice for both lenders and aggregators to choose to participate in the program or not. While we would expect there to be healthy participation based on preliminary indications, the presence of that choice itself is significant to both our support of and the success of the Assurance Program. We suggest that the opportunity to opt out of the program will be a driver in ensuring that the program achieves its intended benefits (ie cost reduction, removal of friction and increase in efficiencies).
15. Key also to the success of the program will be consultation with the Program's intended participants both consenting aggregators and opt-in lenders on scope and design and that a collaborative approach to design and scope will seek to encourage participation across industry in the Program.
16. While MFAA members have contributed to our submission, many of our members are also likely make individual submissions. Individual positions will get captured through a submission from that organisation.
17. The MFAA extends its thanks to the ACCC for the opportunity to contribute to this consultation. If you require further information, please do not hesitate to contact me at [REDACTED] or Anja Pannek at [REDACTED].

Yours sincerely

[REDACTED]

Naveen Ahluwalia
Head of Policy and Legal
Mortgage & Finance Association of Australia