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Strong banks – strong Australia

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Ms Ruth Moore
Financial Services Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600
By email consumercredit@treasury.gov.au

Dear Ms Moore

Review of mortgage broker remuneration – proposals to improve consumer outcomes

The Australian Bankers' Association (**ABA**) welcomes the opportunity to provide this submission to the Government's consultation on ASIC's Review of Mortgage Broker Remuneration.

With the active participation of 25 member banks in Australia, the ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and the community, to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

Introductory comments

Banks recognise that they play an important role in people's lives and in supporting Australia's economic growth. Banks have responsibilities to the community and must also meet their obligations to customers, employees, shareholders and under the law.

Over the past decade, there has been a fundamental shift in corporate culture where the traditional concept of shareholder value creation has been challenged by the concept of the social licence. The banking industry is working to deliver better products and services to customers, and create a better culture. A part of this is promoting ethical behaviour and increasing standards.

To support these objectives, the banking industry has committed to remove or change product sales commissions and product based payments that could lead to poor customer outcomes. The banking industry has also committed to improving governance, culture and performance management processes, including the governance and oversight to mortgage brokers, to promote ethical behaviour and better customer outcomes.

Mortgage brokers play an important role in supporting competition in the home loan lending market, and the banking industry is focussed on making changes in such a way that competition is preserved and customer choice is maintained.

Better banking

The banking industry recognises that customers expect banks to keep working hard to make sure they have the right culture, the right practices and the right behaviours in place. The industry's Better Banking program is a multi-million-dollar investment by the industry, aiming to strengthen cultural and ethical standards and improve the delivery of products and services.

On 21 April 2016, the Australian banking industry announced a comprehensive package of initiatives to protect consumer interests, increase transparency and accountability, and build trust and confidence in banks.

The Better Banking Program was developed following close consultation with key stakeholders and regulators. It targets areas of concern to the community about governance, conduct and culture in banks. The six initiatives cover the areas of remuneration, complaints handling and dispute resolution, whistleblowing, employee reference checking and stopping misconduct moving around the industry, banking standards and regulation of banks.

The banks and the ABA continue to work closely with key stakeholders and regulators on implementation. Progress with the implementation of the reform program is being overseen by an independent governance expert, Mr Ian McPhee. Quarterly progress reports have been published by Mr McPhee since the announcement outlining implementation results, challenges and identifying areas requiring additional attention.

The Better Banking Program consists of a suite of measures to improve conduct and culture within banks.

Sedgwick Review

In April 2017, Mr Stephen Sedgwick AO completed an Independent Review of product sales commissions and product based payments in retail banking (Sedgwick Review). This related to bank staff and third parties who receive payments for selling bank products such as deposit accounts, mortgages and credit cards. The aim of the Sedgwick Review was to assess whether and how product sales commissions and product based payments in retail banking could lead to poor customer outcomes.

The banking industry has committed to implementing the final recommendations of the Sedgwick Review, including the recommendations on the remuneration of third parties.[1]

The banking industry is currently examining options for banks to implement these recommendations separately and individually through their contractual arrangements with aggregators and mortgage brokers. The banking industry is also considering options for an aligned process to respond to parts of the Sedgwick Review recommendations on third party payments where there are practical and consumer benefits from doing so, and subject to any necessary regulatory approvals. We believe these third party recommendations intersect with ASIC's proposals 1, 2, 3 and 6 and the banking industry is taking these proposals into account in implementing the recommendations of the Sedgwick Review. This is consistent with ASIC's commentary on proposals 1, 2, and 3, which notes that the Sedgwick Review provides an opportunity for the banking industry to act on these proposals.

ASIC's Review of Broker Remuneration

The banking industry supported the objectives of ASIC's Review of Mortgage Broker Remuneration, and notes the active participation of our members in responding to data requests and providing other information. The ABA believes the ASIC proposals align strongly with the intent of the recommendations of the Sedgwick Review, in particular, the focus on reforms and improvements that reduce the risk of poor customer outcomes.

Self-regulatory response

The ABA believes there is a significant opportunity for the mortgage industry, in consultation with the Government and subject to any necessary regulatory approvals, to develop a self-regulatory response to change payments and governance arrangements in mortgage broking that will manage risks to consumers and promote better consumer outcomes.

Support from, and consultation with the Government will be essential in developing any self-regulatory response. Any self-regulatory response should promote consistency across the industry and preserve

[1] http://retailbankingremreview.com.au/2017/04/19/publication-of-the-final-report-of-the-independent-review-of-product-sales-commissions-and-product-based-payments-in-retail-banking-in-australia/

competition, while ensuring a base level of conduct and consumer protection. For example, self-regulatory responses can be underpinned by ASIC's approval of industry codes, or take on a more co-regulatory character by building on ASIC guidance.

ABA members have already made a public commitment to self-regulation through their individual agreements to implement the recommendations of the Sedgwick Review. Banks are taking immediate steps to implement these recommendations as soon as practicable, with many banks implementing some changes for employees in the next performance year, and work already underway across some banks to improve governance and monitoring and supervision of mortgage broking.

The ABA and Mortgage and Finance Association of Australia (**MFAA**), together with the Finance Brokers Association of Australia (**FBAA**) and the Customer Owned Banking Association (**COBA**), held a discussion forum with key industry participants including bank and non-bank lenders, aggregators and brokers to progress reform. The industry forum, held on 9 June was recognised by participants as an opportunity for the industry to understand the key issues in response to ASIC's proposals for mortgage broking, the potential impact to aggregators and lenders, and the overlap with the Sedgwick Review. The forum builds on ASIC's commentary against proposal 1, suggesting that the ABA and other stakeholders, including lenders and brokers, should work together on how to respond to that proposal.

The forum participants have agreed to further meetings, and the ABA and MFAA, together with COBA and FBAA are currently developing a more detailed work plan for that forum. Matters that may be considered by the forum could include:

- Developing a consistent approach to quality measures
- Better defining good customer outcomes
- Considering principles for changing volume based payments and non-monetary (soft dollar) incentives, and
- Agreeing a timeframe for implementation of self-regulatory changes.

Working closely with Government, self-regulation provides an opportunity to develop solutions more quickly than through processes that require legislation, preserves competition and minimises unintended consequences for industry and consumers.

Any self-regulatory response should be accompanied by an appropriate reporting framework that provides sufficient visibility to ASIC.

ASIC's proposals

The issues relating to changes to the standard commissions model, product based incentives and governance and oversight in the mortgage industry are complex. As noted above, the banking industry is considering responses to proposals 1, 2, 3 and 6 as part of the response to the third party recommendations of the Sedgwick Review. The banking industry has also begun work with COBA, the FBAA and the MFAA to consider potential self-regulatory and/or co-regulatory responses to ASIC's proposals. These processes are underway and the banking industry will report to ASIC and the Treasury on our progress in the coming months.

This submission provides specific responses to ASIC's proposals 4 and 5.

Clearer disclosure of ownership structures

The banking industry supports reforms that increase transparency and promote competition in the mortgage broking industry. Accordingly, we welcome initiatives to support clear and effective disclosure of ownership structures in home lending.

Any reforms should build on the ownership disclosures in place today. For example, ownership structures are clearly disclosed in current marketing collateral and external websites, amongst other disclosures. We welcome the opportunity to present to Treasury the industry's current approach to these disclosures.

The design of any new disclosure requirements should take into account the purpose and effectiveness of existing regulated disclosures, including Australian Credit Guides, consider broader proposals to update disclosures (such as recommendations 22 and 40 of the FSI) and be underpinned by appropriate consumer testing to ensure the proposed changes are effective.

We have not identified evidence that suggests the proposed disclosure changes will have a material impact on customer behaviour, however, they will help to build consumer confidence through increased transparency. The design of the changes should seek to balance the cost of implementation with commensurate increases in consumer awareness and confidence.

A new public reporting regime

The banking industry strongly supports reforms that increase the transparency and accountability of financial services providers. In principle we support the development of a public reporting regime that focuses on providing consumers with the information they need while balancing the confidentiality of commercial data. In order to determine whether there are any confidentiality considerations, we believe separate consultation with the industry on the proposed public reporting regime is necessary. This will be important to establish whether specific data should be disclosed publicly or remain private and used to inform the regulator's supervision.

The specific data points should be developed in consultation with industry and consumer groups. The design of the data points should be based on consumer research that identifies the measures most useful to consumers and most likely to improve consumer outcomes. For example, it is not immediately clear whether the availability of data on loan size per channel would make any difference to consumer choices regarding how to obtain a home loan.

Only relevant and useful information should be reported to ensure that consumers are not overwhelmed or disengaged by additional disclosures and reporting. We recommend that the data be provided and published annually to manage potential costs of the reporting.

The reporting regime should leverage data collected as part of Australian Prudential Regulation Authority (**APRA**) reporting or Reserve Bank of Australia (**RBA**) reporting, to avoid overlap and unnecessary compliance costs. The data should only be reported on an anonymised and aggregate level.

Next steps

The banking industry will continue to work with other segments of the mortgage industry to consider options for self-regulatory and/or co-regulatory responses to ASIC's proposals, subject to any necessary regulatory approvals. This work will be undertaken through the mortgage industry forum, which is scheduled to meet again on 18 July 2017. The ABA thanks the Treasury for the attendance of officials at that meeting and looks forward to working with the Treasury through the forum and as part of this consultation in the coming months.

We would appreciate the opportunity to discuss this submission and the intersection of the ASIC proposals and Sedgwick recommendations with the Treasury and look forward to working with the Government on these important reforms.

Yours sincerely

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