6 December 2023

Ms Anna Schneider Rumble
Director
Advice and Investment Branch
Treasury

Via email: financialadvice@treasury.gov.au

Dear Ms Rumble

Delivering Better Financial Outcomes – reducing red tape and other measures

COBA appreciates the opportunity to comment on the exposure draft Treasury Laws Amendment (2024 Measures No. 1) Bill 2024 that implements the first tranche of measures from the Quality of Advice Review.

COBA is the industry association for Australia's customer owned banks (mutual banks, credit unions and building societies). Collectively, our sector has over $160 billion in assets and is the fifth largest holder of household deposits. Customer owned banks account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

Key points

COBA is generally supportive of the Recommendations made in the *Quality of Advice Review: Final Report* (December 2022).

We are concerned about the piecemeal acceptance by the Government of certain Recommendations rather than embracing the package in full.

We are concerned that this piecemeal approach to implementation means some measures, such as the changes to Financial Services Guides, in the Bill do not necessarily capture the full intent of what was intended to be achieved in the Report.

COBA is generally supportive of the Recommendations and approach recommended in the *Quality of Advice Review: Final Report* (December 2022). We are concerned by the Government's piecemeal approach in picking and choosing Recommendations rather than embracing the package in full. While we note the Government's intention to make a final decision on the outstanding measures by the end of 2023, we believe this approach creates uncertainty.

We are concerned that the piecemeal implementation of the Review's Recommendations may mean that the full intended effect of the Recommendations may not be achieved. This is because later Recommendations rely on earlier Recommendations and as such this Bill is only implementing the proposals in part. This we believe could lead to anomalous situations that were not intended by the

Review and which could be locked in by this Bill, especially if the Government decides not to proceed with the outstanding measures.

In particular, we are concerned with Part 3 of the Bill that seeks to implement Recommendation 10 of the Report. Recommendation 10 provides that providers of personal advice should continue to make Financial Services Guides (FSGs) available to clients directly or by making the FSGs publicly available on the provider's website.

We note that the use of 'personal advice' used in Recommendation 10 was not used in terms of the current definition as provided for in s 766B of the *Corporations Act 2001* but rather that it used the more expansive definition proposed for in Recommendation 1. The effect of Recommendation 1 was to greatly expand the definition and capture many types of advice that would currently be classified as general advice.

As the Bill is currently drafted, this FSG measure will only apply to the providers of the much more limited definition of personal advice that is currently used. For example, under the current regime, our members mostly provide general advice and only rarely provide personal advice. As such under the current drafting of Part 3 our members would mostly not be subject to these provisions and will not have the same option to make FSGs available on their websites. We would suggest that this does not go as far as was intended in the Report which, due to the more expansive definition proposed in Recommendation 1, meant it was supposed to cover most forms of financial product advice.

We note that this issue is likely to resolve itself if the Government accepts Recommendation 1 and adopts the more expansive definition of personal advice. The expanded definition of personal advice would see most advice provided by customer owned banks shifting from being considered general advice to personal advice and our members would become providers of personal advice.

However, we believe that Treasury needs to give consideration on how to ensure the benefits of Part 3 of the Bill are still applied widely, in line with the Review's intention, if the Government decides to reject the outstanding measures. We believe this consideration could include Treasury amending this Bill or using a future Bill to insert a broader term, such as "financial product advice", rather than just "personal advice" to allow more providers the ability to make FSGs available on their websites. We believe that this would be more in the spirit and intention of Recommendation 10 and would not necessarily see the same limitations as in the current draft.

We look forward to engaging with Treasury on this issue and thank you for taking our views into account. Please do not hesitate to contact Robert Thomas, Senior Policy Adviser [redacted]) if you have any questions about our submission.

Yours sincerely

[redacted]

MICHAEL LAWRENCE
Chief Executive Officer