CUSTOMER OWNED BANKING ASSOCIATION

14 November 2022

Quality of Advice Review Secretariat
Financial Systems Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: AdviceReview@treasury.gov.au

Dear Secretariat

Quality of Advice Review – Conflicted Remuneration

COBA appreciates the opportunity to contribute to this consultation.

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). Collectively, our sector has over $160 billion in assets, around 10 per cent of the household deposit market and around five million customers. Customer owned banking institutions account for around two-thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs).

Our submission addresses the following topics:

- The review of conflicted remuneration generally.
- General insurance exemption (Proposal 1).
- ADI exemption for basic banking products, general insurance products and consumer credit products (Proposal 6).

Conflicted remuneration review

COBA notes that the Quality of Advice Review: Conflicted Remunerations Paper and its proposals are to be read in conjunction with the earlier Proposals Paper released by the Review. However, in comparison to the earlier Proposals Paper we are concerned that this paper is lighter in its evidence and justifications for its proposals. We are uncertain what the Review is intending to achieve with its proposals on conflicted remuneration.

We acknowledge that during the roundtable on 9 November 2022 the Review expressed its guiding principle for this paper as being whether there was a good reason for the continued receipt of conflicted remuneration through these exemptions. COBA understands and supports the intention to 'tidy up' laws but is concerned that the Review has not made a sufficient case for many of the changes it is proposing. It is unclear with many of the proposals what harm the proposal is seeking to address.

COBA is concerned that some of the proposals could further restrict our member's flexibility to develop remuneration packages strategies to attract and retain staff in a highly competitive labour market. Our members, due to their corporate structures, already face limitations compared to the listed banks in how they craft these packages. For example, our members cannot offer equity in the business as

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many listed banks do. Removing or restricting the ability of our members to deploy incentives removes another option for our members to offer competitive remuneration packages compared to listed banks.

COBA asks that the Review in its final report provide further evidence and justification for its proposals so we and our members can better understand why the Review is making its proposals and what harms they seek to address.

General insurance exemption

COBA seeks clarification on how Proposal 1 would work in practice. The proposal retains the existing exemption on the sale of general insurance and consumer credit insurance products with an additional obligation to obtain consent from the consumer for the commission. There is some vagueness in this proposal regarding what entities are supposed to do when a customer refuses to provide consent and how the consent is to be recorded. We note that the Review addressed these questions at the Industry Roundtable on 9 November 2022, but we would like to see those responses reflected in the final report.

The first issue is what occurs if the customer refuses to agree to the commission being paid. The Review indicated that the seller could refuse to proceed with the sale if consent is withheld. However, we think that this causes a bad customer experiences and creates a reputational risk which would then place pressure on sellers to proceed with the sale even though consent for the commission has been withheld. Considering the importance these commissions can have as an employment incentive it could undermine its effectiveness as a tool to reward staff if they were dependent on customer consent.

The second issue is the way consent is to be obtained and recorded, as the Paper indicated that the consent would need to be in writing. COBA accepts the Review's comments at the Roundtable that the intention of this requirement is to not be prescriptive and is not intended to be onerous. We have taken these comments by the Review to mean that the intention is not that the consent needs to be formally recorded in writing, like a contract, but rather that the consent needs to be obtained and recorded in some way, such as being noted in writing on the seller's system. If this understanding is correct, then we support this approach as we desire a flexible approach in how our members can obtain and record the consent. This would, for example, ensure that our members could continue to sell insurance by telephone and be able to receive verbal consent that is then either recorded or is noted in writing in our members' systems.

ADI exemption for basic banking products, general insurance products, and consumer credit products

COBA believes that this exemption continues to serve a purpose and asks the Review to provide further evidence and justification on why it should be removed. If a continuing problem or consumer harm cannot be identified by the Review, then we suggest that the exemption should remain.

Proposal 6 seeks to remove the exemption provided to agents and employees of ADIs recommending a basic banking product, general insurance product or consumer credit products. This Proposal appears to be largely made due to the recommendations of the Sedgwick Review being adopted by the members of the Australian Banking Association (ABA). The Sedgwick Review, in short, confirmed that the ABA's members should move away from using product specific sales models and adopt a balanced scorecard approach.

In making these findings the Sedgwick Review sought to address bad behaviour among the listed banks that had used aggressive product sales targets to maximise profits and led to poor customer outcomes. However, the Sedgwick Review was not completed for or on behalf of COBA or our members. Our members have not subscribed to Sedgwick's recommendations as our members are much less inclined to adopt the aggressive sales behaviours of the listed banks. This is due to their mutual model emphasising the needs of their customers above profit maximisation for shareholders.

We note that the proposal would still allow ADIs to use the balanced scorecard approach that includes both a sales and non-sales based metric. This is welcome as many of our members adopted this approach long before the listed banks. However, the Proposal appears to be responding to bad behaviour by the listed banks rather than by examining why the exemption was put in place and considering whether those same circumstances still apply.

The Explanatory Memorandum of the *Corporations Amendment (Further Future of Financial Advice Measures) Act 2012* explains that the exemption was granted due to the low risk associated with ADIs selling these basic financial products. It is a recognition that the sale of these products by ADI staff and the receipt of conflicted remuneration in these circumstances has a much lower risk when compared to sales of financial products by relevant providers and other regulated entities. These other entities are more likely to sell riskier products which when driven by conflicted remuneration can place the consumer at risk of harm. The exemption recognises the lower risk associated with ADIs and allows for the promotion of basic banking product and helps facilitate greater insurance coverage.

In our view, the relative low risk of these products continues to warrant an exemption for ADIs, especially concerning the sale of basic banking products. We also believe that the granting of the exemption for basic banking products is further recognition that basic banking products should not be subject to the financial product advice regime. As raised in our submission on the Proposal Paper, we believe that basic banking products should be removed from this regime and would help achieve many of the goals being sought by the Review.

Thank you for the opportunity to respond to this consultation. If you wish to discuss any aspect of this submission, please contact [redacted]

Yours sincerely

[redacted]

MICHAEL LAWRENCE
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