

19 May 2016

Ms Kelly Fung
Lawyer, Australian Securities & Investments Commission
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Dear Ms Fung

Client review and remediation programs

The Australian Bankers' Association (**ABA**) welcomed the opportunity to provide an initial submission, and attend a roundtable, on *Consultation Paper 247: Client review and remediation programs and update to record-keeping requirements*.

We provide this supplementary submission to the Australian Securities and Investments Commission (**ASIC**) to update our position following the banking industry's announcement on 21 April 2016 to strengthen community trust in the banking sector (see media release at Attachment A).

In our submission of 26 February 2016, the ABA supported the guidance on client review and remediation programs (**CRRPs**) applying only to Australian Financial Services Licensees who provide personal advice to retail clients on Tier 1 financial products – even though the guidance did allow in some circumstances for extension beyond personal advice and products other than Tier 1 financial products.

Our initial view was that CRRPs on Tier 1 financial products may involve more complex considerations in relation to identifying appropriate response strategies and remediation solutions. We considered that personal advice on Tier 1 financial products is more difficult to review and remediate and guidance is most needed for these circumstances. It, therefore, made sense for ASIC's regulatory guidance to focus on these types of remediation programs.

In the banking industry's announcement, the banking sector committed to making it easier for customers when things go wrong. As part of this commitment, we support ASIC expanding its guidance to cover all financial advice (personal and general) to retail clients and all financial products (Tier 1 financial products and Tier 2 financial products).

We acknowledge that when customers are impacted by a systemic error or problem in the provision of banking and financial services there should be consistency of treatment of those customers irrespective of the type of advice received or the financial product. From a customer perspective separate treatment or processes may be judged as being unequal processes. Our intention is for all customers who have been impacted by an error or difficulty, that there is an opportunity for this to be resolved.

To deliver this outcome we recognise, as ASIC has in its consultation paper, that remediation programs will be different depending on the circumstances. Accordingly, the guidance should be applied to the extent relevant (that is the principles can be scaled up or down depending on the nature of the issue and the size of the program).

Our revised position reflects the broader view that while the nature and extent of the remediation may differ depending on the type of advice or financial product and the outcomes of the process may also differ, it is important for consumers to have confidence that remediation is available. The end result should be for AFS licensees to put in place appropriate remediation for the circumstances and for consumers to have access to appropriate and clear processes to address the situation.



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The ABA requests a meeting with ASIC to discuss our revised position and how this might impact on your consultation and guidance. As the current draft guidance was not drafted with Tier 2 products or general advice in mind, the industry would like to have the opportunity to provide further input should there be any changes.

Please do not hesitate to contact me on 8298 0410 or dtate@bankers.asn.au to discuss.

Yours sincerely

A handwritten signature in black ink that reads "Diane Tate". The signature is written in a cursive, flowing style.

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