

CONFIDENTIAL

5 February 2015

Ms Ashly Hope
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Australian Securities and Investments Commission
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By email: ashly.hope@asic.gov.au

Dear Ms Hope

ASIC Consultation Paper 224: Facilitating electronic financial services disclosures

Thank you for the opportunity to comment on ASIC's consultation paper proposing class order relief to facilitate electronic delivery of financial services disclosures and the use of more innovative Product Disclosure Statements.

About Commonwealth Bank of Australia

Commonwealth Bank of Australia (the Group) is one of Australia's leading and largest providers of integrated financial services including retail, business and institutional banking, funds management, superannuation, insurance, investment and broking services.

The Group welcomes ASIC's current review and commitment to enabling financial services providers to deliver disclosures electronically. We strongly support the facilitation of electronic disclosure. The foundation of any disclosure regime should be the provision of information to consumers in a form that can easily be accessed, stored and retrieved if necessary. Electronic disclosure is best placed to achieve this.

Technology has a considerable role to play in enhancing the financial literacy of Australians, enabling them to be confident users of the financial system and to take more control of their own financial decisions. Along with encouraging greater financial literacy and engagement, electronic disclosure should also reduce compliance costs and facilitate faster, more convenient services.

Our customers have demonstrated a growing propensity to interact, consume and transact with technology. The provision of financial services via technology presents opportunities for more innovative disclosure documents, faster delivery, greater convenience, new services, and wide-reaching financial literacy support, while bringing significant productivity benefits to the overall economy.

We have been involved in preparing submissions from the Financial Services Council (FSC), Australian Bankers' Association (ABA) and Association of Superannuation Funds of Australia (ASFA). Subject to the enhancements proposed in the FSC, ABA and ASFA submissions, we support option 4 proposed in the consultation paper.

While we endorse our industry body submissions, the Group wishes to emphasise the following key points.

Need for technology neutrality

In order to promote digital innovation and ensure longevity of the legislative framework, the Group firmly believes the requirements governing financial services disclosure should be 'technology-neutral'. This approach also enables regulators and government to quickly adapt to industry developments and appropriately manage risks.

As recognised in the Financial System Inquiry's Final Report (recommendation 39), technology-neutrality should be implemented by policy makers and regulators as a guiding principle in developing regulation. We acknowledge ASIC's current consultation process is an important step in progressing this aspiration, but believe the next version of Regulatory Guide 221 and any associated class orders should accommodate any existing electronic delivery and notification methods and other electronic methods that may evolve in the future. Although we recognise email as a popular, versatile and reliable mechanism for the Group to communicate with clients on a variety of matters, we believe that ASIC should not prescribe email as the only electronic delivery and notification method or even as the preferred method because this will reduce the industry's flexibility and will limit consumer choice.

A technology-neutral philosophy should also be adopted in circumstances where consumers are required to give consents, elections or confirmations to financial organisations. Consumers should not be compelled to provide these in 'writing' on printed material when there are numerous technological equivalents (such as recording a decision orally which can be verified subsequently). For example, signatures on paper application forms should be no more valid as a means of accepting a document than a text message, email or webpage click through agreement amongst other electronic mechanisms.

Whole of government approach

While we welcome ASIC adopting a leadership position on facilitating electronic disclosure through this consultation, to fully realise the benefits of digital innovation in financial services we believe a whole of government approach should be adopted. This requires all the government's financial services related agencies, including the regulators, formally working together in collaboration with industry.

Given ASIC's consultation is limited to a subgroup of Corporations Act disclosures, we are concerned the benefits to consumers and providers will not be fulfilled. Moreover, the limited application of the class order risks the continued inconsistent

application of disclosure requirements. This creates increased complexity for providers and confusion for the customer.

We acknowledge ASIC's influence is limited to certain statutes and it may be impractical for this consultation to be extended to address other legislation such as the Electronic Transactions Act. However, the Electronic Transactions Act provides a useful framework to facilitate the use of technology in financial services and its interaction with legislation such as the Corporations Act 2001 should also be reviewed as a priority. A whole of government response is therefore necessary to oversee this expanded scope and ensure consistency across legislative and regulatory requirements. We therefore welcome ASIC's support in referring these consistency issues and suggested whole of government approach to Treasury and government.

The Group recognises that ASIC's consultation is an important step in removing regulatory impediments to industry use of technology and the Group welcomes the opportunity to meet with ASIC prior to finalising the class order and the amended Regulatory Guide. Should you have any questions regarding this submission, please contact Arti Brown (Executive Manager, Group Regulatory Affairs and Advocacy) or Joseph Sorby (Executive Manager, Wealth Management Advocacy)

Yours sincerely

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