

30 January 2015

Ms Ashly Hope
Strategic Policy Adviser
Australian Securities and Investments Commission
Via email: ashly.hope@asic.gov.au

Dear Ms Hope

Re: Consultation Paper 224: Facilitating electronic financial services disclosures

Thank you for the opportunity to respond to ASIC's proposals on facilitating electronic delivery of financial services disclosures.

The Customer Owned Banking Association (COBA) is the industry body for Australia's customer owned banking institutions, representing 77 credit unions, six mutual building societies and 11 mutual banks. Our members are ADIs regulated by APRA, and are Australian Financial Services (AFS) and Credit Licensees, regulated by ASIC.

COBA members provide the full range of retail banking services and products to more than four million customers. COBA member organisations are owned by their customers and place the interests of their customers first. As such, COBA members have a strong interest in ensuring that their customers are informed and equipped with the information they need when taking up financial products and services.

COBA broadly supports the measures outlined in Consultation Paper 224 (CP 224), noting many benefits that will stem from increased use of electronic delivery of disclosure documents. These include significant cost savings to financial services providers and benefits to consumers, including ease of access and storage and exposure to more innovative or interactive forms of disclosure.

COBA's responses to particular aspects of the consultation paper are outlined below.

Proposal A1: Options for facilitating electronic disclosure

COBA members support ASIC's proposal to implement options 1 through to 3 which they agree will better facilitate electronic disclosure.

COBA believes that financial services providers should have the ability to choose the method of disclosure most suited to each circumstance, based on the nature of the disclosure and product type, so that they can best meet customers' needs.

We also note Recommendation 23 made by the 2014 Financial System Inquiry, which urges action to "Remove regulatory impediments to innovative product disclosure and communication with consumers..." and states that "Government should amend the law to remove regulatory impediments to innovative communication of product disclosure information, such as the use of online communication tools...". We see the proposals in CP 224 as a positive step towards satisfying this recommendation.

COBA members report that there will significant benefits both for their businesses and their customers as a result of greater use of electronic methods of disclosure.

Cost savings

COBA strongly supports measures that facilitate electronic disclosure as a default method for the delivery of disclosure documents, most notably the provisions at paragraph 221.22 of draft Regulatory Guide 221. Two of COBA's larger members have conducted an analysis of their expected savings should these measures be implemented. They are as follows:

- Member 1 has estimated cost saving of \$422,000 per annum should the provision of hard copy disclosures be reduced by 50%. This estimate includes only the types of disclosures provided upon take-up of a new product, and does not include savings to be made from electronic delivery of periodic statements. It also does not include savings to be made from reduced postage costs in instances where disclosures need to be mailed to customers.
- Member 2 has estimated a minimum saving of \$200,000 per annum on the types of disclosures provided upon take-up of a new product, which includes printing and some postage costs. Most significantly however, this member estimates an annual saving of between \$1 million to \$2 million per year in relation to electronic delivery of periodic statements.

Members also noted that additional cost savings would be found in reduced storage requirements for large numbers of hard copy documents, the time taken to process these, and the time taken to amend and update documents when versions become outdated.

These savings are significant, and will ultimately be passed onto the customers of COBA members in the form of better service and competitive pricing.

Customer Experience

Members have outlined a number of benefits to customers as a result of these measures, including:

- a greater likelihood of customer engagement with initial disclosure documents because they will be delivered to, and accessed by customers sooner after opening their new account;
- customers will be able to store and access disclosure documents easily within their email accounts and/or on their computer. This is arguably more reliable and efficient than storing paper copies (notably for periodic statements); and
- the use of search and find functions in electronic documents provides more efficient and accurate identification of certain topics within documents that customers might be interested in.

COBA agrees with ASIC's External Advisory Panel that Australia is past the 'tipping point' where "disclosure by electronic means should be the default method of delivery". We also agree with comments at paragraph 4 of CP 224 which state that "even when consumers prefer electronic delivery of disclosures, behavioural biases can lead to inertia or retaining the status quo, which means that consumers do not request that form of disclosure", and "enabling electronic disclosure to be the default method... may overcome that behavioural bias, with those consumers who prefer electronic delivery of disclosures being more likely to receive it."

COBA also acknowledges that there will be customers for whom electronic delivery of disclosure will not be appropriate, such as the elderly and customers living in remote locations with poor internet access. COBA members will continue to offer hard copy disclosure documents to these customers as necessary.

Proposal B1: email delivery of disclosure documents

COBA supports the new measures within draft Regulatory Guide 221 that will allow financial services providers to deliver disclosure documents to customers by email, without the need to seek consent to do so. Further, we do not see the need to seek consent from a customer to utilise the email address that financial services providers have on file for that customer. One COBA member has noted that:

“Consent is not consistently dealt with under various pieces of legislation, and this continues to be a regulatory burden in obtaining, storing, and managing consent. If [the requirement for email disclosure] consent was to be removed, it would significantly increase the efficiency of business processes.”

We consider that if a customer has provided their financial services provider with an email address, it is reasonable to assume they are willing to receive communications via that medium.

COBA notes that email addresses, along with various other customer details, are likely to be checked or updated at the time of opening any new account. As such we see any email address on file for that customer as effectively ‘nominated’.

We also note that it is strongly in the interest financial services providers to have up-to-date contact details for customers, and is a requirement of various regulatory regimes including customer due diligence obligations under Australia’s anti-money laundering and counter-terrorism financing regime. As such, we consider the risk of electronic disclosure documents being sent to incorrect email addresses as low.

Proposal B2: referring customers to disclosure documents on a website

COBA members support ASIC’s proposal to allow an additional method of delivery for disclosure, by making information available on a website, and referring customers to that information.

Members have noted the following benefits from this additional method:

- better real-time disclosure of information during customer “on-boarding” as new accounts are opened;
- should customers need to revisit their disclosure documents, rather than having to locate stored documents either in hard copy, or electronically, customers will be familiar with where to go to access relevant disclosures by navigating a website; and
- there are various channels that will allow customers easy access to online documents at a time that is convenient for them. Members support innovative delivery via popular channels, including a web link sent via SMS or email.

COBA supports ASIC’s statements at paragraphs 39 and 40 of CP 224, and suggests that proposal B2 will allow financial service providers to develop better and more engaging forms of disclosure for their customers.

Proposals C1 and C2: innovative PDS documents

COBA broadly supports the proposals at C1 and C2 of CP 224 which aim to facilitate more innovative forms of product disclosure statements (PDSs) by providing relief under the *Corporations Act 2001*. We note that this is primarily necessary due to restrictions and parameters prescribed in this Act that relate to hard copy documents.

We acknowledge that these proposals also align with recommendation 23 of the Financial System Inquiry, and may bring significant benefits to customers. They will also likely encourage financial services providers to explore new ways of delivering important information to customers.

COBA would welcome the extension of this relief to the provision of financial services guides, so that our members have the option of developing innovative disclosure for customers.

Proposal D1: aligning these proposals with other disclosure regimes

COBA supports ASIC's intention to develop technologically-neutral guidance and regulatory requirements to facilitate new and creative forms of financial services disclosures. COBA supports the proposal at D1 of CP 224, and would support the alignment of the treatment of both financial service disclosures and credit disclosures. We foresee significant business and consumer benefits in extending the measures within CP 224 to credit disclosures, and these would take the form of cost savings and enhanced consumer experience, such as those outlined on page two of this submission.

In relation to business efficiency, one COBA member has stated "there is currently inconsistency in the requirements surrounding electronic disclosures between the NCCP Act, Corporations Act, Electronic Transactions Act, and other codes that makes compliance an administrative burden...".

We also note that the *Privacy Act 1988* requires certain types of disclosures within the financial services context, and would support any cross-regulator measures that may assist financial services providers in streamlining their systems to enhance efficiency, and create better customer experiences. At the time of opening a standard transaction account, we note that a COBA member might need to provide up to five or six disclosure documents to a customer, including:

- a financial services guide;
- a product guide or conditions of use document;
- an accessibility and facilities brochure;
- privacy disclosure documents; and
- code of practice information.

As such, COBA members welcome measures that will assist in aligning the delivery of this information.

Please do not hesitate to contact me on _____, or Amber Fitzpatrick, Senior Adviser, on _____, should we be able to provide further information or assistance.

Yours sincerely

Luke Lawler

Acting Head of Public Affairs