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Fleur Grey
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Financial Services
Australian Securities & Investments Commission

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By email: responsible.lending@asic.gov.au

Dear Ms Grey,

Update to RG 209: Credit licensing: Responsible lending conduct

Westpac Group (**Westpac**) welcomes the opportunity to provide a submission to the Australian Securities and Investments Commission (**ASIC**) on CP 309. Westpac has responded to the specific questions provided by ASIC in CP 309 and also includes general comments below, which we welcome the opportunity to discuss as consultation continues.

Background and General Comments

The financial services industry is currently experiencing a period of rapid and significant technological change to adapt to the evolving needs of its customers. As we continue to explore ways to provide innovative and specialised service offerings, we support future regulatory guidance to remaining principles based in order to uphold this much needed flexibility.

In addition, Westpac submits that a principled approach is critical to enabling continued availability of credit and flexibility in the options available for customers. This is important in maintaining a competitive and diverse market of products, enabling broad customer choices.

Open Banking and Comprehensive Credit Reporting

We note Open Banking is not yet legislated, meaning, we note that how Open Banking will shape industry practice remains reliant both on the final rules, consent framework and the level of customer adoption. Experience from the UK has reflected limited uptake, largely driven by customer privacy and data security concerns. As such, guidance from ASIC on the wide use of Open Banking should take into account the current adoption of the Australian Open Banking framework, particularly the international experiences.

Likewise, Comprehensive Credit Reporting (**CCR**) is also not yet fully adopted across the financial services industry with data supply and use largely driven by the major financial institutions. As such, we suggest that guidance on the interaction between CCR information and responsible lending be mindful of current state, as well as inherent limitations in the level of information that can be used for dual purposes. We suggest that guidance on the interaction between CCR information responsible lending should be principles based and allow for future enhancement and development of industry practice.

Inquiries and verification

As part of the focus on inquiries and verification, Westpac suggests it would be appropriate that ASIC also takes into account the overall approach credit licensees take to the financial situation component of a suitability assessment. We note that issues which may be relevant to the financial situation component include:

- changes in financial circumstances foreseen or planned by the customer;
- the extent to, and manner in which, the future financial situation (including changes to interest rates, changes in overtime and bonus income and the repayment of existing credit facilities from the proceeds of the credit being sought) should be taken into account; and
- the extent to which adjustments to the customer's pre-application lifestyle can be taken into account, including reasonable adjustments to discretionary expenses.

In addition, Westpac notes the importance in recognising the considerations outlined in the *National Consumer Credit Protection Act* (2009) (**NCCP**), as well ASIC's regulatory guidance and APRA's APG 223 and APS 220. Westpac also considers that non-ADIs should have regard to that guidance in considering these aspects of the responsible lending requirements.

Adopting a modest lifestyle for a period of time in order to acquire real property has been the means by which many Australians have secured long term financial security. Experience shows that many customers are prepared to, and do actually, make lifestyle adjustments after acquiring a home and can then service their home loan obligations without substantial hardship. As such, Westpac submits that placing too much emphasis on the customer's pre-application living expenses when determining suitability, without allowing scope for reasonable lifestyles adjustments ("belt-tightening"), would have the effect of denying credit to many customers.

In formulating its guidance, Westpac suggests ASIC consider the distinction between verification activities and validation (plausibility) review. Specifically, it would be useful to distinguish those elements of a customer's financial situation that are capable of positive verification (such as income and existing liabilities) from elements that are unable to be positively verified (such as living expenses), where it is only possible for licensees to check the plausibility of what the customer has declared against past expenditure and/or industry benchmarks.

We note that ASIC's guidance and commentary on responsible lending has evolved significantly since the introduction of RG 209. As updates are made to RG 209 as a result of this consultation process, it would be of assistance to the industry that the extent to which updated guidance replaces or supersedes current materials is clearly identified.

Our responses to the specific questions raised in the consultation paper are contained in **Appendix A** below. We welcome the opportunity to participate in further rounds of consultation as ASIC works to finalise its review.

Please contact Mili Gobran on 0466 797 644 or by email at mili.gobran@westpac.com.au if you would like any further information.

Yours sincerely,

Les Vance
Chief Operating Officer
Consumer

Amy Gleeson
Chief Risk Officer
Consumer

Appendix A

ASIC Proposal B1: We are considering whether to identify particular inquiries and verification steps in RG 209 that we think would generally be reasonable to provide greater certainty to licensees about complying with their obligations.	
B1Q1: Would it be useful for licensees if ASIC were to identify the inquiries and verification steps that we consider should be taken? Why or why not?	Westpac supports ASIC continuing to provide broad principles-based guidance on the inquiries and verification steps it considers should be taken. Given the evolution of industry practices and regulatory guidance over time, it would also be useful for a revised RG 209 to include examples of how expectations may vary for different credit products and customers. This will support licensees in understanding ASIC's expectations with respect to scalability. In addition, it may be useful for ASIC's guidance to cover, at a principle level, ASIC's expectations regarding the adoption and transition for credit licensees to use the information gathered by data aggregation services (in particular Open Banking APIs and Comprehensive Credit Reporting (**CCR**)). Flexibility in how licensees undertake these inquiries and verification steps, however, remains essential as licensees respond to significant technological transformation, including preparation for the implementation of Open Banking and whole of industry CCR. Prescriptive and detailed guidance, especially at a credit product level, would limit the licensee's ability to respond to these changes and may affect the ability of licensees to develop innovative service offerings and impede competition moving forward.
B1Q2: If there are particular examples of industry practice that you consider should be reflected in any guidance, please provide details of those practices.	Licensees offer a broad range of distinct credit products to meet diverse customer needs in a competitive marketplace. Evolving customer expectations will only be able to be met where licensees have the flexibility to innovate and to develop unique and valuable service offerings. Noting that industry practice is diverse, and will remain so, we submit that a principled approach to inquiries be adopted in any updated regulatory guidance. While a broad range of industry practices exist, and it may be appropriate for these to be taken into account in future guidance, we note that the inclusion of any practices should be considered in the context of the product categories for which they were developed. To the extent that licensees use benchmarking tools developed for industry, they should use those benchmarks in a manner consistent with any guidance issued by the body which developed those benchmarks.
B1Q3: Are there any kinds of credit products, consumers or circumstances for which you consider it may be reasonable to undertake fewer inquiries and verification steps? Please identify the	Westpac considers that the level of inquiries and verification required to be taken should be determined by what is reasonable and appropriate having regard to the specific circumstances of the customer and the credit contract in question, including taking into account the unsuitability assessment that these inquiries and verification are directed to. Because this obligation is scalable by reference to reasonable steps, there will be circumstances, customers and credit products for which it may be reasonable and

kinds of products, consumers and circumstances and particular features you think are relevant.	appropriate to undertake fewer inquiries and verification steps than others. Examples of when it may be appropriate to undertake fewer inquiries and/or verification steps include: • when the product type is less complex; • when no new credit is being provided (e.g. the transaction is a switch from one credit product to another, the consolidation or amalgamation of two credit accounts or a partial limit switch in which part of the limit attached to one existing account is transferred to another existing account); • where the licensee has developed (in its relationship with the customer) an informed understanding of their financial position, credit history and the customer has a high credit score (for example, relationship managed customers, like our private wealth customers and business customers); and • customers with assets who seek credit (for example, credit cards) as a payment mechanism for day to day expenses, where their asset holdings significantly outweigh the value of credit sought. Westpac also suggests that, where possible, any future guidance should reflect the growing trend towards digital interaction and that a principled and scalable approach is appropriate. This will preserve flexibility to develop innovative service offerings which cater to changing customer expectations. Westpac welcomes the opportunity to discuss scalability on further occasions as ASIC continues its consultation process.
B1Q4: In your view, what aspects of the consumer's financial situation would a licensee need to inquire about in all circumstances? If you think some aspects of the consumer's financial situation do not need to be inquired about, please explain why.	What constitutes reasonable inquiries should be assessed having regard to the specific circumstances of the proposed loan. Westpac considers that it may generally be appropriate for inquiries to be made in relation to: • income; • existing liabilities; • fixed and recurring non-discretionary expenses; and • foreseeable changes in financial circumstances. Further to our answer in relation to B1Q3, there are some circumstances where it may be more appropriate to reduce inquiries and/or consider the customer's overall financial position rather than focus on a "checklist" style minimum standard approach. These inquiries would generally be appropriate across all product types, although the extent of inquiry may differ according to product type, the information available from independent sources and whether licensees have a pre-existing relationship with the customer.
B1Q5: In your view, what aspects of the consumer's financial situation would a licensee need to verify in all circumstances? If you think	Our view of the legal obligation in the *National Consumer Credit Protection Act* (2009) (**NCCP**) is that it will generally be appropriate to take steps to verify both a customer's: • income; and

some aspects of the consumer's financial situation do not need to be verified, please explain why.	• existing liabilities. Where the customer is relying on savings or the proceeds from the sale or realisation of assets to meet all or part of their financial obligations in relation to the credit it would generally be appropriate to verify the existence and, in appropriate cases, the value of the relevant savings or assets. It should, however, be recognised that there is little value in trying to estimate the likely value of property at some point in the future. Westpac does not believe that there is significant utility in requiring the verification of living expenses, particularly having regard to the following: • potential discrepancies associated with classification of expenses by customers; • risks and difficulties associated with estimating a customer's future expenses by reference to past bank statements and transactions on their accounts; • the risk of misclassifying expenses even where statements are available. Due to the inherent limitations with subjective estimates, it is difficult accurately to classify expenses on statements as continuing or one off, discretionary or non-discretionary, or whether the expense would be required once the loan would be drawn. An example of this is where customers make cash withdrawals (as it not possible to attribute those withdrawals to particular items of expenditure); and • distortions associated with one-off expenses. Accurately verifying basic and discretionary living expenses using transactional account data is currently not feasible and in Westpac's experience, would be of limited value. This is due to the issues identified above, as well as the fluctuating nature of some expenses, the fact that expenses may change following the issuing of credit (for example where a customer obtains a home loan and moves house), and the degree to which customers can reduce certain expenditures, often referred to as "belt-tightening" – for example holidays and entertainment. For these expenses, licensees should have appropriate processes to make assumptions or test plausibility (supported by an appropriate inquiry process) rather than an overemphasis on verification. Finally, it is not possible to verify whether customers have closed facilities held with other financial institutions, where that is a condition of the new credit approval (for example when existing debts are being consolidated or refinanced). This is because the proceeds from the proposed credit are required to clear the facilities and verification occurs prior to funds being advanced.
B1Q6: What would be the effect on consumers of ASIC identifying particular inquiries and verification steps? For example, what would be the effect on access to and cost of credit for consumers?	Westpac notes that this will vary significantly across product categories and is heavily dependent on the details of the steps identified by ASIC and the extent to which these steps are additional to those required by the NCCP. In the absence of fully functional Open Banking APIs across the sector and mature whole of industry CCR data, confirmation will still need to be obtained from a variety of sources including heavily manual processes, the management of which will be impacted significantly if greater document review is required. As such, it could be expected that a large and detailed list of steps,

	and greater document review requirements would result in increases to customer waiting times for approval, delays in the availability of credit and increased customer costs. Increased requirements for small business owners seeking credit for personal purposes would likely have a customer impact, as heightened verification requirements would likely require the engagement of professional services to provide additional confirmation of financial situation. Such engagement is already required for the majority of small business owners in order to obtain a home loan. Westpac notes that, currently, considering the impact of changes to financial circumstances (e.g. family planning, changes to the number of dependents and pending retirement) is the responsibility of the credit applicant. We believe this should remain so. Westpac believes it would be unreasonable and inappropriate for licensees to be expected to adopt views on these circumstances. There are also appropriate restrictions on what sensitive personal information we seek, use and record about our customers from a privacy perspective. We note that the incorporation of prudential interest rate buffers on certain credit facilities is designed to accommodate some degree of change in future financial circumstances.
B1Q7: What would be the effect on business costs of ASIC identifying particular inquiries and verification steps? Please provide details of the effect on compliance costs for the licensee, and any factors that are likely to affect the level of cost or cost savings.	The identification of any of these steps additional to those already required by the law or guidance would likely require financial institutions to make changes to adapt. Depending on the scope of the additional requirements identified, such changes may require system changes or hiring of additional staff to undertake manual verification, particularly as automated inquiry and verification capability is not yet fully available.
B1Q8: In your view, what would be the effect (either positive or negative) on competition between licensees? Please provide details.	Generally, we believe that the implementation of prescriptive guidance on these matters would reduce flexibility and innovation for licensees and as such would negatively impact competition. As a guiding principle, we believe that licensees must be able to take appropriate risk in providing credit and to determine and price their risk appetite accordingly.
ASIC Proposal C1: **We propose to amend the current guidance in RG 209 on forms of verification to:** **(a) clarify our guidance on kinds of information that could be used for verification of the consumer's financial situation, and provide a list of forms of verification that we consider are readily available in common circumstances; and** **(b) clearly state that views on what are 'reasonable steps' will change over time, as different forms or sources of verifying information become available. For example, developments in open banking and data aggregation services will assist licensees to efficiently confirm the financial situation of a consumer (including allowing simultaneous inquiry about and verification of some information).**	

C1Q1: Please provide details of any particular types of information that you consider should be reflected in the guidance as being appropriate and readily available forms of verification?	Westpac considers that the level of inquiries and verification required to be taken should be determined by what is reasonable and appropriate having regard to the specific circumstances of the customer and the credit contract in question, taking into account the unsuitability assessment that these inquiries and verification are directed to. Westpac does not think it is appropriate in all circumstances to verify all the expense types listed in Tables 3 and 4 of CP 309. In the case of unsecured lending, requiring the verification of housing, communications, child support, spousal maintenance, insurance, regular school fees, child care, utility or regular entertainment/recreation services, would, in Westpac's view, be inappropriate. The additional costs and delay required for the verification of all these expense categories could affect the pricing of the products and may even render the provision of that type of credit uneconomic by many licensees. In the case of secured residential lending, there is more scope for detailed verification activities, and as we note in our response to B1Q5, it will generally be appropriate to take steps to verify existing liabilities. However, we note that a number of categories of expenses listed in the tables, such as communications, some types of insurance, public education costs, utilities, entertainment and recreation expenses are taken into account by the Melbourne Institute in the development of HEM. We also more generally do not believe that there is significant utility in requiring the verification of living expenses, see our response to B1Q5. With regard to Table 5 of CP 309, Westpac agrees that transactional account information (including information acquired through data aggregation reports) can be useful in identifying existing debts/liabilities, and we are hopeful over the coming period, CCR will enhance the ability of licensees to verify existing debts. In formulating its guidance, ASIC should consider the distinction between verification activities and validation (plausibility) review. Particularly, it would be useful to distinguish those elements of a customer's financial situation that are capable of positive verification (such as income and existing liabilities) from elements that are unable to be positively verified (such as living expenses), where it is only possible for licensees to check the plausibility of what the customer has declared against past expenditure and/or industry benchmarks. Further clarity would be useful on the extent to which licensees should consider all types of information to which they have access and all types of information available within certain data sources. This is particularly important in clarifying the concept of scalability for these obligations. For example, Westpac does not consider that this type of data investigation practical and/or necessary for smaller amount credit products and unsecured lending. A requirement to undertake additional data investigation for smaller amount lending would result in a prolonged application process which may not be proportional to the level of risk or debt exposure for the customer. It would also likely further restrict the availability of credit. With regard to increased data availability under Open Banking, it would be valuable for ASIC to clarify whether it expects a licensee to refuse to provide credit unless the customer consents to the licensee receiving access to information regarding accounts with other financial institutions available through Open Banking.

C1Q2: Do you consider that the examples included in Appendix 1 are appropriate? Why or why not?	Westpac supports the examples used in Appendix 1 to the extent that this would be included as principled rather than prescriptive guidance. Westpac does not accept that the types of information listed in Tables 3 and 4 of Appendix 1 would necessarily be readily available or reasonable to obtain. In addition, it would not be practical to expect that all possible sources be used to verify the same information for a single customer. Prescriptive guidance would not be appropriate as it may not be sufficiently adaptable to changes in technological capabilities and could potentially restrict innovation and competition.
C1Q3: Are there particular issues with using data aggregation services that you consider should be raised in our guidance? Please provide details of those issues, and information that you consider should be included in our guidance. For example, would it be useful to include specific guidance on matters the licensee could, or should, raise with the consumer before obtaining the consumer's consent to use this kind of service?	Westpac firmly believes that there is value in the use of data aggregators and that they will continue to play a valuable role in presenting licensees with a more detailed view of a customer's financial situation. However, it is also important to note that there are limitations to what can be accurately identified merely through the analysis and categorisation of transactional account data. Principles based guidance on how this data should be used in assessing lending applications would be useful, noting that significant uncertainty remains around the implementation and customer acceptance of Open Banking. Data privacy and security are also critical issues in relation to the use of aggregators which should be considered. Licensees must appropriately consider and assess potential risks in the use of third-party aggregators where those licensees' security systems may differ from those used by the lending institution, and as such, data stored by the third-party may not be held at the same level of security.
ASIC Proposal C2: **We propose to expand our guidance on what are reasonable steps to verify the financial situation of a consumer by:** **(a) more clearly stating that it is not sufficient merely to obtain verifying information but not have regard to it, or to use a source of information to verify only one aspect of the consumer's financial situation if it contains other (potentially inconsistent) information about other aspects of the consumer's financial situation; and** **(b) including an 'if not, why not?' approach—that is, if a licensee decides not to obtain or refer to forms of verifying information that are readily available, we consider they should be able to explain why it was not reasonable to obtain or refer to those forms of verification in the circumstances of the particular consumer involved.**	
C2Q1: Do you consider that the proposed clarification of guidance on reasonable verification steps would be useful? Are there any other aspects of our guidance on verification that you consider would be useful?	Clarification of guidance on reasonable verification steps would generally be useful for the industry. However, in Westpac's view the proposed guidance in C2 (a) would not be appropriate in the context of using bank statements to verify living expenses. We set out our detailed reasoning in the response to B1Q5. Whilst income is generally able to be reliably tracked across time periods, living expenses (especially discretionary living expenses) are highly variable and past transactions are not necessarily predictive of what customers might do. While customers generally have limited control over variation in their income, they may have much more capacity to vary their living expenses.

	The difficulty of verifying living expenses is increased where the customer has a number of accounts, potentially with multiple institutions including joint accounts.
C2Q2: Would an 'if not, why not' approach encourage improvements to current verification practices? Why or why not?	An "if not, why not" approach appears inconsistent with the NCCP obligation to take reasonable steps to verify financial situation.
C2Q3: What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	It is likely that if this approach were adopted, customers would be subject to extended application periods and increases to the potential cost of credit due to the proposed changes to documentation and record-keeping. Documenting "if not, why not" explanations for all readily available document types (irrespective of whether the document has been used or referred to) would result in additional time and resources needed to meet these additional requirements. This approach would also result in customers being subjected to additional inquiries based on minor differences or discrepancies which would further impact the timeliness of credit provision. There is a risk that, if the volume of inquiries were to significantly increase, extra resourcing or technological change would be required and would result in further cost increases. These additional costs would inhibit the ability of licensees to generate new or innovative service or product offerings, and as such could negatively impact competition.
C2Q4: What additional business costs would be involved in this approach?	We refer to our answer provided in C2Q3.
C2Q5: In your view, what would be the effect (either positive or negative) on competition between licensees? Please provide details.	Based on our response in C2Q3, we believe this approach may negatively impact competition amongst licensees. In addition, prescriptive guidance would inhibit flexibility and reduce the capacity of licensees to develop innovative and competitive service offerings to meet the evolving needs of customers.

ASIC Proposal C3:

We propose to clarify our guidance in RG 209 on the use of benchmarks as follows:

(a) A benchmark figure does not provide any positive confirmation of what a particular consumer's income and expenses actually are. However, we consider that benchmarks can be a useful tool to help determine whether information provided by the consumer is plausible (i.e. whether it is more or less likely to be true and able to be relied upon).

(b) If a benchmark figure is used to test expense information, licensees should generally take the following kinds of steps:

(i) ensure that the benchmark figure that is being used is a realistic figure, that is adjusted for variables such as different income ranges, dependants and geographic location, and that is not merely reflective of 'low budget' spending; **(ii) if the benchmark figure being referred to is more reflective of 'low budget' spending (such as the Household Expenditure Measure), apply a reasonable buffer amount that reflects the likelihood that many consumers would have a higher level of expenses; and** **(iii) periodically review the expense figures being relied upon across the licensee's portfolio—if there is a high proportion of consumers recorded as having expenses that are at or near the benchmark figure, rather than demonstrating the kind of spread in expenses that is predicted by the methodology underlying the benchmark calculation, this may be an indication that the licensee's inquiries are not being effective to elicit accurate information about the consumer's expenses.**	
C3Q1: Do you consider that the proposed clarification of guidance about use of benchmarks would be useful? Why or why not?	Westpac agrees that benchmarks can be a useful tool to help determine whether information provided by the customer is plausible. Regarding the steps outlined at C3b(i) and (ii), Westpac notes as follows: • HEM is scalable in this way and is not merely reflective of "low budget" spending. Westpac uses an income-based HEM which is reflective of a modest lifestyle which it considers to be an appropriate benchmark. • The methodology used by the Melbourne Institute in setting the HEM figures suggests that the actual expenditure level of many people is less than that of HEM. We also note that there is already an established practice across industry for interest rate buffers and minimum interest floor rates to be applied in relation to home lending. Further, serviceability on interest only home loans is currently assessed over residual terms (noting that the average life of a loan may be between 6 and 7 years for example, but assuming a loan life of 25 years) which already builds conservatism into loan assessment practices. As such, we are concerned that the application of a further buffer may be too conservative and may further impact credit availability. For these reasons (and the reasons above), the use of any additional "buffer" specifically for living expenses would be inappropriate and result in some customers who could comfortably service the debt being denied credit thereby having an adverse effect on their long-term financial security. To maintain the overall integrity of the models used, if ASIC were to introduce a buffer in addition to HEM, licensees would need to reassess or remove other buffers, noting that several of these are required under APG223. Benchmarks used across industry are updated periodically and are quite different in nature and so any buffer could not be comparable or consistent between licensees. We suggest the appropriate approach would be for credit licensees to assess how benchmarks are used in the context of their overall model and in conjunction with other buffers, floors and other criteria that form part of their overall assessment criteria. Westpac currently undertakes the review outlined at C3b(iii) and agrees with the proposed guidance.

	As a general principle, Westpac suggests that the primary focus should be placed on the circumstances in which it is appropriate to apply benchmarks rather than on the amounts reflected in the benchmarks. We further suggest that ASIC consider an approach to guidance in line with existing APRA guidance on HEM usage.
C3Q2: Please provide information on what buffer amounts you currently apply, or would otherwise consider to be reasonable.	Westpac already applies a buffer and floor rate to secured lending serviceability calculations in line with APRA's guidance in APG223. The use of a "buffer" in addition to HEM is not currently applied by Westpac, for the reasons outlined in C3Q1 we do not consider it is necessarily or appropriate. Westpac's credit policies also require that mandatory shading is applied to certain income types in order to account for any variability in relation to those income sources (for example, income from a residential investment property). Both of these measures ensure a level of conservatism is applied in the serviceability calculation.
C3Q3: What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	Changes to the use of benchmarks and HEM have the potential to heavily impact the availability of credit to customers. For instance, the proposed approach may restrict the capacity of licensees to consider a customer's ability to alter future spending habits or may disproportionately impact customers with actual monthly expenses lower than the benchmark. In addition, the business and technology costs associated with this proposed approach would likely increase the cost of credit for customers.
C3Q4: What additional business costs would be involved in this approach?	We refer to our position outlined in C3Q3.
ASIC Proposal C4: We propose to update the current guidance in RG 209 on reasonable inquiries about the consumer's requirements and objectives to reflect the findings and guidance in Report 493 *Review of interest-only home loans: Mortgage brokers' inquiries into consumers' requirements and objectives* (REP 493).	
C4Q1: Do you consider that the proposed clarification of guidance about understanding the consumer's requirements and objectives would be useful? Why or why not?	Clarification of guidance on reasonable inquiries into a customer's requirements and objectives would be useful. It would, however, be helpful and appropriate for the guidance to reflect the different steps considered reasonable for different product types, having regard to the complexity and general uses of the particular product type. Any proposed clarification of ASIC's expectations would need to be considered against the possible introduction of any 'best interests' duty recommended by Commissioner Hayne in the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

	There is a risk however, that changes to the guidance provided on requirements and objectives, and the recommended 'best interests' test may be misaligned, rendering licensees unable to reconcile these requirements.
C4Q2: What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	This will drive increased process times for home loan applications which will result in delays and increased costs for customers. Increased record keeping requirements here may also have unintended consequences for customers. As further information is kept by financial institutions, it is unclear how lenders would be expected to utilise it going forward. Record keeping obligations need to be balanced with the protections that customers have in accordance with the privacy regime.
C4Q3: What additional business costs would be involved in this approach?	This would drive an increased cost for record keeping going forward. Further, this would add significant time to the process of providing credit, resulting in increased business costs.
ASIC Proposal D1: We propose to include new guidance in RG 209 on the areas where the responsible lending obligations do not apply.	
D1Q1: Are there any forms of lending where the responsible lending obligations are being used by licensees in situations where the law does not require the responsible lending obligations in the National Credit Act to apply? Please describe the situations where this takes place.	Westpac notes that there are forms of lending where the responsible lending obligations are being used by credit licensees in situations where the NCCP does not apply. This has been observed in relation to Code Compliance Monitoring Committee (**CCMC**) monitoring of non-regulated loans for small business customers, based on Banking Code of Practice prudent and diligent banking requirements. Together with past guidance from the CCMC, complying with these obligations may have the effect of licensees seeking to comply with responsible lending obligations for small business customers. In turn, this results in a more onerous origination process for these customers.
D1Q2: Are there any forms of small business lending where licensees are unsure about whether the responsible lending obligations in the National Credit Act apply? Please describe the situations which give rise to this uncertainty.	There is uncertainty where a customer has a mix of regulated and non-regulated lending or has income and expenses across multiple types of legal entities. It requires a licensee to operate across different legislative regimes with different inquiry and verification standards adding complexity and cost to the process.
ASIC Proposal D2: **We propose to include new guidance in RG 209 on:** **(a) the role of the responsible lending obligations, and in particular the obligation to take reasonable steps to verify information provided about the consumer's financial situation, in mitigating risks involved in loan fraud; and** **(b) risk factors that might indicate that additional verification steps should be taken.**	

D2Q1: Would specific guidance about loan fraud and the impact on responsible lending obligations of the licensee be useful? Would guidance encourage broader improvements in processes for identifying fraud and reduce the risk of consumers entering unsuitable credit contracts as a result of fraud? Why or why not?	Westpac is of the view that specific guidance on loan fraud would be of little value, and potentially detrimental. We note it is in the interest of licensees to prevent loan fraud in order to prevent defaults and non-payment. Nevertheless, this should not detract from the obligation on the customer to act honestly and provide accurate (non-fraudulent) information to a licensee. We note that it is possible that a licensee may take reasonable steps to verify the information provided by a customer and ultimately still be defrauded. This is largely attributable to the adapting practices of fraudsters, whose practices will continue to adapt over time. Westpac therefore considers it essential that licensees maintain the necessary flexibility to adapt and evolve their fraud prevention practices in an environment of rapid digital and technological change. We suggest that the inclusion of guidance on the steps licensees should take to prevent loan fraud may unintentionally increase instances of loan fraud, and as such the risk of licensees entering into unsuitable credit contracts. Published guidance has the potential to be harmfully used by sophisticated fraudsters to inform them of the steps licensees must take, and by association those which they would need to circumvent. Noting again that fraud practices are likely to evolve over time, detailed and specific guidance would place licensees in an inflexible position, rendering them unable to adapt and leaving them with reduced capacity to prevent fraudulent activity.
D2Q2: Please provide details of any risk factors that you consider it would be useful to identify, and additional verifying steps you consider to be reasonable in those circumstances.	Westpac notes that its existing policies are designed to detect and mitigate the risk of loan fraud. There are a number of ways in which Westpac attempts to identify risk factors. These include system alerts, customer complaints and alerts from our internal investigative functions. Risk factors may include: • that the customer is known to have previously provided false documentation or information; or • the customer's application contains information that conflicts with information we already hold or that we obtain in the course of our verification activities. These factors should prompt further inquiries to be made. Risk factors that indicate additional steps may be required include the: • customer not being on-boarded face to face; • credit product being sold through a non-face to face channel; • customer making numerous changes to their application; and • customer having frequently applied for credit. We note that these risk factors may vary as our methods of engaging with customers across different channels evolve due to technological change. Requesting additional documentation (e.g. more payslips or more bank statements) and validating these documents with their issuer helps reduce fraud for many of these cases.

D2Q3: What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	Noting our view expressed at D2Q1 that specific guidance on loan fraud would be of little value, we observe that these steps would require further manual review to be conducted frequently which would result in substantial operational costs being incurred by credit licensees.
ASIC Proposal D3: **We propose to include guidance in RG 209 to clarify how repayment history information may be used, including that:** **(a) the occurrence of repayment difficulties on one product will not necessarily mean that a new credit product will in all cases be unsuitable for that consumer; and** **(b) this information should instead trigger the licensee to make more inquiries to enable them to understand those repayment difficulties, and the likelihood that the circumstances of the consumer leading to those difficulties will mean that the consumer would also be unable to meet financial obligations under the new product being considered.**	
D3Q1: Would guidance about use of negative repayment history information and hardship indicators reduce the risk that credit providers consider it necessary to refuse applications for further credit products that may in fact be affordable for the consumer? Why or why not?	Negative repayment history is an important factor in determining a customer's propensity to repay future debt commitments. It is within a licensees' risk appetite to make decisions about granting credit based on a number of factors including previous repayment history. Westpac is of the view that previous repayment behaviour should be a critical factor in making lending decisions. There is a need to differentiate between a customer's current ability to repay a loan and their previous history in paying loans. Banks do have existing processes which enable credit officers to manually review certain applications, for example, where negative repayment history or hardship indicators may raise additional questions regarding a customer's capacity to repay. With reference to additional information, such as further supporting information, credit officers can support a loan approval if they form the view that a customer can repay a debt commitment despite negative bureau data. Any guidance around the use of negative repayment history information and hardship indicators should be flexible enough to allow for consideration of customers who may require assistance with debt consolidation or restructuring in times of financial difficulties. Westpac takes the view that when the customer recovers from financial difficulty and has been making regular and up-to-date payments, licensees should be able to recommence lending in accordance with their lending policies.
D3Q2: What are the benefits, risks and costs for consumers in this approach (including any effect on access to and cost of credit for consumers)?	Westpac notes that there is a risk that a customer may be placed in further hardship where they have experienced previous financial difficulty and are subsequently advanced further credit. However, for customers with previous experiences of hardship which have already passed, denial of credit on this basis may be inappropriate. Prescriptive guidance around the provision of credit to customers who have experienced prior financial hardship may affect credit availability and pose significant disadvantage to these customers.

ASIC Proposal D4: We propose to include new guidance in RG 209 about maintaining records of the inquiries made and verification steps taken by the licensee, reflecting our findings and recommendations on good recording practices included in REP 493.	
D4Q1: Do you consider that guidance on industry best practice for recording the inquiries and verification steps that have been undertaken would be useful for licensees? Why or why not?	Westpac would appreciate high level or principles-based guidance in relation to best practice for recording inquiries and verification steps. Westpac is of the view that record keeping obligations should be aligned to the inquiries and verification steps taken for different lending products. Implementing or adopting a consistent practice across all credit types, systems and channels would be challenging in a short timeframe with the resulting cost significantly outweighing the benefits. Any guidance developed should reflect the increasingly digital ways in which consumers are engaging with their financial service providers.
ASIC Proposal D5: We propose to provide additional guidance in RG 209 on what information we think should be included in a written assessment.	
D5Q1: Would it be useful for ASIC to provide an example of a written assessment to illustrate the level of information that we think should be included? Why or why not?	Given variances in the information sought for different lending products, such as reverse mortgages, the information captured in a written unsuitability assessment will also vary greatly. Accordingly, it would be beneficial for ASIC to provide principles-based guidance on the items that should be addressed in a written unsuitability assessment rather than a prescriptive example. Additionally when developing its guidance, we suggest ASIC is mindful of the timing requirements licensees must meet in providing this information to customers on request when considering what information should be included.
D5Q2: Please provide any comments on the example set out in Appendix 2.	On the requirements and objectives element of the written unsuitability assessment, we agree that it would be appropriate to include information on: • the purpose of which the credit was sought and the amount of credit requested; • a summary of other requirements and objectives highlighted by the customer; • financial situation information, including any reasonable reductions in living and discretionary expenses following 'belt-tightening' conversations; • where the repayment and cancellation of existing credit facilities or the reduction in the credit limit of existing credit facilities has been taken into account in the serviceability assessment; and • any foreseeable changes the customer has identified that may adversely impact their ability to meet the proposed loan commitments.
D5Q4: What additional business costs would be involved in this approach?	While Westpac does gather relevant customer information, we note that the creation of a specific template which replicates the example contained in Appendix 2 would need to be custom built, which would be costly to implement in a short timeframe.