

Australian Securities and Investments Commission
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SUBMISSION PAPER:

Consultation Paper 327 Implementing the Royal Commission recommendations: Mortgage brokers and the best interests duty

This Submission Paper was prepared by Prospa Group Limited (ACN 625 648 722). www.prospa.com.au

Prospa Group Limited (“Prospa”) welcomes the opportunity to provide feedback on ASIC’s Consultation Paper 327 *Implementing the Royal Commission recommendations: Mortgage brokers and the best interests duty*.

1. A little about us – “Prospa”

Prospa is currently Australia’s #1 Online Small Business Lender¹, operating out of our Sydney headquarters. Prospa has supported small businesses with funding of more than \$1.4 billion and employs over 250 people in Australia.

Prospa offers Small Business Loans between \$5,000 to \$300,000 and a Line of Credit for up to \$100,000. All customers of Prospa are small businesses with all funding decisions achieved by assessing well over 450 data points, including turnover, profit & loss, business tenure, size and industry sector.

Prospa uses a sophisticated risk-based scoring methodology developed over our more than seven years of lending to small businesses. We verify the specifics of every small business applicant using data from

¹ Market position for online balance sheet lenders to Australian small businesses, based on Prospa’s volume as a percentage of total market volume in 2017 as reported in KPMG “The 3rd Asia Pacific Region Alternative Finance Industry Report”, November 2018; USDAUD FX rate of 0.767.



sources such as (but not limited to): ASIC's website, Equifax, bankstatements.com and the Australian Tax Office.

2. Impact Prospa has on the Australian economy

A recent independent study conducted by RFi Group and the Centre for International Economics on behalf of Prospa, revealed the positive economic impact of Prospa's lending to small business in Australia. See full report here: https://howto.prospa.com/rs/317-LRS-411/images/PRO028_EconomicImpactReport_FA03_Digital.pdf.

Based on the results of this study, Prospa has contributed \$5.6 billion in total to Australian nominal GDP and helped maintain 80,000 annual FTE positions since 2013. These findings demonstrate that by providing small business owners with fast, simple access to finance, Prospa is not just directly contributing to its customers' revenue and jobs, but to the wider Australian economy.

3. Improving access to affordable credit for small businesses

The Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry emphasised the need to ensure that small businesses have access to reasonably affordable and available credit.² We believe that the goal of both protecting small businesses and improving access to affordable credit for small businesses is best served by proportionate regulation that is fit-for-purpose. This requires a bespoke regulatory approach to small business lending that, amongst other things, takes into account the particular characteristics of small businesses, as compared to consumers. The impact on competition and access to affordable credit for small businesses should also be considered.

4. A clear statement in the Regulatory Guide that mortgage brokers' best interests duty does not apply to commercial lending

We recognise and are very supportive of clarification provided by ASIC in Regulatory Guide 209 (*Credit licensing: Responsible lending conduct*) that responsible lending obligations do not apply to credit provided

² Final report, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, page 95.

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wholly or predominantly for a business purpose, even if the borrower is an individual and the loan is secured over that person's home or other personal assets.

With respect to mortgage brokers' best interests duty, we recommend that clarification be included in the Regulatory Guide that the best interests duty does not apply to commercial credit (including credit assistance in relation to commercial credit that is provided within a mortgage broking business). That is, the purpose of the loan should be considered. The best interests duty should not apply to credit assistance in relation to commercial credit, even where the borrower or prospective borrower, as relevant, is an individual or the loan is secured over residential property or other personal assets.

We understand that this clarification is consistent with the purpose of the best interests duty provisions. We also believe that this clarification is required to ensure that there is sufficient certainty so as to:

- prevent the best interests duty from inappropriately being applied to commercial credit; and, in turn,
- promote access to affordable credit for small businesses.

Kind regards,



p.p

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If you would like more information regarding our submission, please contact:

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