

TOYOTA FINANCE AUSTRALIA LIMITED

9 August 2019

Ms Jacqueline Rush
Senior Policy Advisor
Australian Securities and Investments Commission

By email: IDRSubmissions@asic.gov.au

Dear Ms Rush,

CONSULTATION PAPER 311 – INTERNAL DISPUTE RESOLUTION

Toyota Finance Australia Limited (TFA) is pleased to provide feedback on ASIC's Consultation Paper 311 (CP311) and Draft Regulatory Guide 165 (RG165). We have also had the benefit of reviewing the draft submission from the Australian Finance Industry Association.

Please find below a summary of our position as it relates to the key sections of CP311 and RG165, as well as responses to the specific questions raised in CP311 (see Annexure A).

About TFA and its products

TFA is a wholly owned subsidiary of Toyota Financial Services Corporation of Japan (TFSC), which is itself a wholly owned subsidiary of Toyota Motor Corporation of Japan (TMC). TFA was the first overseas finance company established by TMC in 1982 to support the sale of Toyota vehicles in Australia. TFA is an integral part of Toyota in Australia, partnering with Toyota Motor Corporation Australia Limited (TMCA) in the sale and financing of Toyota and Lexus vehicles by dealerships throughout Australia.

TFA offers consumer and commercial secured loans to retail customers, as well as wholesale finance and insurance facilities to dealerships. TFA is the first choice financier for 99% of Toyota dealerships and 100% of Lexus dealerships, and supports its multi franchise Toyota dealers in the sale and financing of non-Toyota vehicles.

TFA also has a significant commercial finance and leasing business, dealing with small, medium and large businesses. TFA also finances a range of insurance products issued by Toyota Insurance (ADICA) and other licensed insurers.

Summary of TFA's position

Whilst TFA is broadly supportive of ASIC's plans to update its guidance on internal dispute resolution (IDR), we have concerns about a number of key issues including:

- The proposed definition of 'small business';
- The prescriptive nature and high compliance costs of the proposed data recording requirements, especially in relation to complaints resolved within five business days;

TOYOTA FINANCE AUSTRALIA LIMITED

- The challenges involved in assessing complaints for the possibility of a systemic issue at the time they are received; and
- The proposed transitional periods for compliance with the enhanced IDR process.

Complaints resolution

To set the scene for this submission, over the 12 months ending 17 July, 2019:

- 25% of complaints were resolved on the day they were received;
- 64% of complaints were resolved within five days;
- 83% of complaints were resolved within 10 days;
- 95% of complaints were resolved within 21 days; and
- 100% of complaints were resolved within 45 days.

The incidence of 'small business' complaints, as currently defined, was minimal.

Excluded from the above statistics are a range of customer communications with our Call Centre staff that are not currently recorded, as they are resolved on the first point of contact. Recording these interactions would substantially increase the overall number of complaints that TFA records.

Definition of small business

Whilst TFA agrees with the need to harmonise the definition of small business for the purposes of the Corporations Law, the ASIC Act and the AFCA Act, we believe that the proposed definition masks the fact that a business employing up to 100 employees may not in fact be small.

The business may be a sophisticated, highly capitalised entity with significant revenues and capital reserves, not requiring protection under the proposed IDR rules.

Data recording requirements

TFA is concerned with the proposed scope of ASIC's data recording requirements. The mandating of 26 specific fields for all complaints is onerous and will create an undue compliance burden on firms given the operational realities of IDR.

Complaints rarely proceed in a linear way. They may involve multiple phone calls, dealing with third parties including intermediaries, and subsequent clarification with the customer about the incident. The appropriate way to record such complaints as they progress is by updating the complaint record in 'free text' – that is by gradually adding more information about the complaint as it becomes known.

Many of the 26 fields prescribed by ASIC can only be completed once a complaint is resolved. This may be appropriate for a lengthy or complicated complaint, but is less justifiable where a complaint has been resolved quickly, perhaps even on the first phone call.

Complaints resolved quickly represent the vast majority of those received by TFA. Over the period 17 July 2018 to 17 July 2019, 25% of TFA's complaints have been resolved on the same day, and 64%

have been resolved within the first five days. This does not include the even larger number of customer complaints resolved by Customer Service staff on the first call that are not formally recorded.

TFA submits that a lighter touch regime would be more appropriate for complaints resolved at the first point of contact or within five days. This would still allow ASIC to understand the nature of complaints across the industry, while retaining the existing incentive to resolve complaints as quickly as possible.

TFA would be happy to work with ASIC to come to an acceptable compromise in relation to reduced recording requirements for this class of complaints.

Systemic issues

TFA is also concerned about the requirement to assess each complaint for possible systemic issues at the time a complaint is investigated. Customer Service staff and Complaints staff are unlikely to have the broad business knowledge required to assess whether a complaint is systemic. Requirement (a) in RG165.132 is overly prescriptive, and does not allow for assessment of systemic issues on a regular basis, e.g. monthly. Assessing for systemic issues on an ad-hoc basis is likely to lead to many 'false positives', as well as missing potentially genuine issues.

Transitional periods

TFA is concerned that the proposed transitional periods are inadequate. The scale of changes will affect multiple business platforms across TFA business units, the true extent of which will not be known until the updated RG 165 is published.

The transition to shorter IDR timeframes (March 2020) and enhanced data recording (June 2020) do not give TFA adequate time to make the system changes that will be required to comply. Changes of this magnitude require planning, prioritisation, build time, testing and subsequent staff training to ensure that the customer experience is a positive one.

TFA believes that a 12-month transitional period commencing from the release of the finalised RG165 would be appropriate. This would give all firms more time to make the required system and process changes, including training, to ensure a smooth transition. Given that on average some 64% of complaints are resolved within 5 days, we respectfully submit that there will be no material disadvantage by the adoption of a more realistic timeframe for transition into the enhanced IDR regime.

TFA looks forward to working with ASIC to improve RG165. Resolving complaints quickly, efficiently and fairly is central to our approach of putting the customer first.

In the attached Annexure, we set out our responses to ASIC's specific questions. We would be happy to discuss our submission and responses with ASIC at its convenience.

TOYOTA FINANCE AUSTRALIA LIMITED

Yours faithfully,

TOYOTA FINANCE AUSTRALIA LIMITED

A Hopkins

ADAM HOPKINS

General Counsel and Company Secretary

Tel: (02) 9430 0325

Email:

TOYOTA FINANCE AUSTRALIA LIMITED

ANNEXURE A: RESPONSES TO CP311 QUESTIONS

B: PROPOSED UPDATES TO RG165		
B1: Definition of 'complaint' – AS/NZS 10002:2014		
B1Q1	<p>Do you consider that complaints made through social media channels should be dealt with under IDR processes? If no, please provide reasons. Financial firms should explain:</p> <p>(a) how you currently deal with complaints made through social media channels; and</p> <p>(b) whether the treatment of social media complaints differs depending on whether the complainant uses your firm's own social media platform or an external platform.</p>	<p>Yes, to the extent that TFA is aware or made aware of such issues.</p> <p>a) Whilst TFA does not have its own social media platform, we review complaints made against TFA on Toyota Motor Corporation Australia's social media pages and direct them to the complaints team for investigation and resolution.</p> <p>b) Where complaints are made on external or unauthorised social media pages, TFA endeavours to identify and respond to the customer. However, there are inherent difficulties in identifying and contacting such customers. Therefore, it is reasonable for these complaints to be excluded from the RG165 requirements.</p> <p>TFA believes that its communications with customers (including the Credit Guide) make it clear where complaints can be lodged by customers.</p>
B2: Definition of 'complaint' – Additional guidance		
B2Q1	Do you consider that the guidance in draft updated RG 165 on the definition of 'complaint' will assist financial firms to accurately identify complaints?	TFA agrees with the new definition of 'complaint'.
B2Q2		Yes, additional guidance would be helpful.

TOYOTA FINANCE AUSTRALIA LIMITED

	<p>Is any additional guidance required about the definition of 'complaint'? If yes, please provide:</p> <p>(a) details of any issues that require clarification; and</p> <p>(b) any other examples of 'what is' or 'what is not' a complaint that should be included in draft updated RG 165.</p>	<p>a) Table 4 - Number 32 in the Data Dictionary lists 'financial difficulty' as a possible complaint code.</p> <p>Whilst financial difficulty may be a complaint, for example if the customer is dissatisfied with how their difficulty was handled, it is unlikely to constitute a complaint in all cases.</p> <p>TFA would appreciate clarification if financial difficulty or hardship is automatically deemed a complaint.</p> <p>b) n/a</p>
B3: Definition of 'small business'		
<p>B3Q1</p>	<p>Do you support the proposed modification to the small business definition in the Corporations Act, which applies for IDR purposes only? If not, you should provide evidence to show that this modification would have a materially negative impact.</p>	<p>As noted in our covering submission, TFA understands the reasons for the change to the 'small business' definition, however we are concerned that it will capture sophisticated and well developed businesses including those with high turnover, and significant capital and reserves.</p> <p>TFA does not believe that the number of employees is not a good gauge of whether a business is a 'small business'.</p> <p>From a transitional perspective, finance origination and complaint management systems will need to be upgraded to capture such information.</p> <p>The consequence of the definition would be that almost all business complaints would need to be treated as falling within IDR processes.</p>

TOYOTA FINANCE AUSTRALIA LIMITED

B4: Recording all complaints received		
B4Q1	Do you agree that firms should record all complaints that they receive? If not, please provide reasons.	<p>Yes, however as stated in our covering letter, TFA submits that it is unnecessary and excessive to require that all data fields are completed where complaints are promptly resolved – e.g. at first point of contact or within 5 days.</p> <p>Such matters should be the subject of less extensive reporting to ASIC. Firms should be rewarded for the prompt resolution of complaints by relief from the extensive data recording requirements. This would still provide visibility to ASIC of complaints without imposing an undue regulatory burden.</p>
B5: Recording a unique identifier and prescribed data set for all complaints received		
B5Q1	Do you agree that financial firms should assign a unique identifier, which cannot be re-used, to each complaint received? If no, please provide reasons.	<p>TFA agrees with this approach and already uses a unique identifier for all recorded complaints.</p> <p>TFA would like clarification on how ASIC expects firms to report on complaints with multiple issues. For example, if a customer complains about fees and their interest rate in the one call, would this be categorised with one unique identifier or two?</p> <p>TFA suggests that one identifier is more operationally viable, to avoid unnecessary duplication and double counting of complaints.</p>
B5Q2	<p>Do you consider that the data set proposed in the data dictionary is appropriate? In particular:</p> <p>(a) Do the data elements for 'products and services line, category and type' cover all</p>	<p>In general, TFA supports the adoption of an abridged data set of 5-6 elements for those complaints resolved at the first point of contact or within 5 business days. The careful selection of relevant data elements will still enable ASIC to identify trends.</p>

TOYOTA FINANCE AUSTRALIA LIMITED

	<p>the products and services that your financial firm offers?</p> <p>(b) Do the proposed codes for 'complaint issue' and 'financial compensation' provide adequate detail?</p>	<p>a) TFA is happy with the product service number and types although some clarity would assist regarding add-on automotive insurances, e.g. GAP in Table 8 General Insurance.</p> <p>b) Yes.</p>
<p>B6: IDR data reporting</p>		
<p>B6Q1</p>	<p>Do you agree with our proposed requirements for IDR data reporting? In particular:</p> <p>(a) Are the proposed data variables set out in the draft IDR data dictionary appropriate?</p>	<p>TFA refers ASIC to its response to B4Q1, which discusses the possibility of a limited reporting regime for complaints resolved quickly. In addition;</p> <p>a) TFA has questions about the following elements of the data reporting:</p> <ul style="list-style-type: none"> • Aboriginal or Torres Strait Islander: TFA does not presently collect this information at loan origination or complaint stage. • Complainant's desired outcome: Often, the complainant will not have a specific desired outcome in mind. The credit provider will be best placed to assess the range of possible solutions. • Complaint issue (financial difficulty): TFA is concerned that this could result in all hardship claims being classed as 'complaints'. Is ASIC's view that any form of hardship application is a complaint? If not, the guidance must clarify this. • Complaint remedy: Does a 'financial remedy' include remedies relating to a finance contract, e.g. where a payment or fee is waived?

TOYOTA FINANCE AUSTRALIA LIMITED

	<p>(b) Is the proposed maximum size of 25 MB for the CSV files adequate?</p> <p>(c) When the status of an open complaint has not changed over multiple reporting periods, should the complaint be reported to ASIC for the periods when there has been no change in status?</p>	<p>b) Yes, the proposed file size is adequate.</p> <p>c) Yes, TFA agrees that an open complaint should continue to be reported while its status remains unchanged.</p>
<p>B7: Guiding principles for the publication of IDR data</p>		
<p>B7Q1</p>	<p>What principles should guide ASIC's approach to the publication of IDR data at both aggregate and firm level?</p>	<p>The key guiding principle in relation to publication should be customer protection – i.e. whether or not the publication of data will aid customers.</p> <p>There should also be a sense of perspective relating to the number of complaints as compared to the size of the firm. For example, a very large firm would be expected to have more complaints than a small one – this does not necessarily indicate a systemic issue.</p> <p>Publication at a firm level should only apply in situations where a firm's IDR performance is outside the industry median of firms engaged in similar activities. Prior notice should be afforded to the firm with a view to understand the reasons for the difference – e.g. a potential reporting error.</p>
<p>B8: IDR responses – Minimum content requirements</p>		
<p>B8Q1</p>	<p>Do you agree with our minimum content requirements for IDR responses? If not, why not?</p>	<p>TFA is satisfied with the minimum content requirements, as we already provide customers with most of the specified information in our IDR responses.</p> <p>However, we refer ASIC to our response to B15Q1 in relation to transitional periods.</p>

TOYOTA FINANCE AUSTRALIA LIMITED

B9: IDR responses – Superannuation trustees		
B9Q1	Do you agree with our proposed approach not to issue a separate legislative instrument about the provision of written reasons for complaint decisions made by superannuation trustees? If not, please provide reasons.	n/a
B10Q1	Do you consider there is a need for any additional minimum content requirements for IDR responses provided by superannuation trustees? If yes, please explain why you consider additional requirements are necessary.	n/a
B11: Reduced maximum IDR timeframes		
B11Q1	<p>Do you agree with our proposals to reduce the maximum IDR timeframes? If not, please provide:</p> <p>(a) reasons and any proposals for alternative maximum IDR timeframes; and</p> <p>(b) if you are a financial firm, data about your firm’s current complaint resolution timeframes by product line.</p>	<p>TFA does not support the proposal to reduce the maximum IDR timeframe from 45 days to 30 days.</p> <p>(a) Our data indicates that on a 12 month rolling monthly average, TFA takes more than 30 days to resolve an issue for only 2.24% of complaints. This small number has been the result of a significant focus to resolve complaints quickly.</p> <p>However, a very small number of complaints will always take longer than 30 days to investigate. Feedback from our complaints team indicates that this is typically due to delays in hearing back from customers. Additionally, where a complaint involves a dealership, investigating this matter can take time.</p> <p>(b) Our data indicates that TFA resolves 95% of IDR issues within 21 days, and 97.76% within 30 days.</p>

TOYOTA FINANCE AUSTRALIA LIMITED

		Therefore, TFA does not believe that a reduction in timeframe is justified nor required.
B11Q2	We consider that there is merit in moving towards a single IDR maximum timeframe for all complaints (other than the exceptions noted at B11 (b) above). Is there any evidence for not setting a 30-day maximum IDR timeframe for all complaints now?	All timeframes affecting TFA (with the noted exception of hardship claims at 21 days) are already at 45 days, and are proposed to move to 30 days. Therefore, TFA has no further comments beyond those in B11Q1.
B12: Role of customer advocates		
B12Q1	Do you agree with our approach to the treatment of customer advocates under RG 165? If not, please provide reasons and any alternative proposals, including evidence of how customer advocates improve consumer outcomes at IDR.	TFA supports this recommendation.
B12Q2	Please consider the customer advocate model set out in paragraph 100. Is this model likely to improve consumer outcomes? Please provide evidence to support your position.	TFA is generally supportive of this model.
B13: Systemic issues		
B13Q1	Do you consider that our proposals for strengthening the accountability framework and the identification, escalation and reporting of systemic issues by financial firms are appropriate? If not, why not? Please provide reasons.	TFA supports the intent of the systemic issue requirements, and has implemented most of the requirements. However, TFA does not support the proposal at B13(c) (i) for staff who record complaints to assess each complaint for a possible systemic issue. Systemic issues are more appropriately assessed by more experienced team leaders or compliance staff, who have a broader knowledge of the business. Complaints staff may not have the training to make this assessment adequately,

TOYOTA FINANCE AUSTRALIA LIMITED

		<p>potentially leading to false positives or missed issues.</p> <p>TFA supports the balance of the recommendations, as they more accurately reflect how firms handle potential systemic issues.</p>
B14: IDR Standards		
B14Q1	<p>Do you agree with our approach to the application of AS/NZS 10002:2014 in draft updated RG 165? If not, why not? Please provide reasons.</p>	<p>TFA generally agrees with these requirements; however has reservations about the requirement to provide IDR training to all staff, even if they are not involved in handling complaints. This seems unnecessary, particularly for staff who never deal with customers – e.g. Accounts or Human Resources.</p>
B15: Transitional arrangements for the new IDR requirements		
B15Q1	<p>Do the transition periods in Table 2 provide appropriate time for financial firms to prepare their internal processes, staff and systems for the IDR reforms? If not, why not? Please provide specific detail in your response, including your proposals for alternative implementation periods.</p>	<p>TFA submits that the proposed transitional periods are inadequate given the scale of changes and the reality that the final changes will be unknown until the updated RG165 is published in December 2019. It is unreasonable to expect that firms will be able to comply within the proposed timeframes.</p> <p>For example, work to comply with requirements such as the new 'IDR response' terminology will require system changes that cannot occur until the guidance is finalised – this cannot be implemented at the same time as the guidelines themselves are released.</p> <p>The transitions for shorter IDR timeframes and data recording (March 2020 and June 2020 respectively) also do not give firms adequate time to undertake the comprehensive system changes and training that will be required to comply.</p>

TOYOTA FINANCE AUSTRALIA LIMITED

		TFA suggests that a 12-month transitional period from the release of RG165, for all new requirements, would be appropriate. This would give all firms time to make the required system and process changes, and ensure a smooth transition.
B15Q2	Should any further transitional periods be provided for other requirements in draft updated RG 165? If yes, please provide reasons.	Refer to our response to B15Q1.