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Dear Ms Rush

**Internal Dispute Resolution: Proposed Amendments to Regulatory Guide 165 (RG165)
Submission on Consultation Paper 311 (CP311) from Westpac Group (Westpac)**

Westpac welcomes the opportunity to make a submission to the Australian Securities and Investments Commission (ASIC) on CP311 and the proposed amendments to RG165.

Below and **enclosed** is Westpac's response to the specific questions posed by ASIC in CP311 along with Westpac's general position regarding internal dispute resolution (IDR) and handling of complaints.

Westpac's Approach to IDR and Complaints Handling

Westpac's goal is to deliver a world class complaints service that solves customer complaints with care, delivers better and faster outcomes for customers, and helps prevent issues occurring in the first place. We believe that a positive complaint management process is better for our customers and for us. Complaints give us an opportunity to build stronger relationships with our customers and improve our business. Our submission addresses a number of key areas where we suggest further amendments to ASIC's proposals to ensure that our management of complaints aligns with delivering better customer outcomes. Specifically, these include:

- Ensuring that timeframes are not reduced for complex complaints that require extensive investigation and review, specifically in the areas of responsible lending, financial advice, general and life insurance and superannuation, as compressing these time frames may lead to poor customer outcomes. We support the timeframes being reduced for standard complaints to 30 days;
- Restricting the definition of a complaint to an expression of dissatisfaction made to an organisation about its conduct rather than simply dissatisfaction with the institution in general; and
- Ensuring sufficient time is allowed for Financial Firms (FFs) to implement all changes required under the amended RG165.

In 2018, we established the Customer & Corporate Relations division, elevating the most senior position as a Group Executive role to focus squarely on lifting how we manage customer complaints. As part of the new division, we have focused on strengthening our complaints culture by centralising complaints handling teams and delivering a number of key initiatives including:

- Group-wide complaints policy, standards and playbook which guide our people in the resolution of complaints;
- Customer Outcome Committee focused on the resolution of complex, sensitive and/or long dated customer complaints, with senior cross-divisional representation;
- Enhanced complaints reporting, including a monthly report on complaints data and trends to the Board and Executive;
- Root Cause focus to identify potential issues and escalate to product and service General Managers and their teams;
- Group-wide 'Why complaints matter' training and 'Every customer matters' training focused on complaints handling and vulnerable customers;
- 'Spot It. Log It. Own It' communications campaign, reinforcing key messages on managing customer complaints; and
- Navigate sessions across the Group focused on complaints and vulnerable customers and making decisions in the grey on complex issues.

Westpac's approach to complaint handling is designed to provide a consistent framework to complaint handling across the Group. This framework already encompasses a number of the proposals contained within the proposed amendments to RG165, including:

- recording all complaints received;
- reporting complaints data to senior management, including in relation to systemic issues; and
- minimum content requirements for IDR responses.

We would welcome the opportunity to meet with ASIC to discuss our submission. If you have any queries or would like us to arrange a meeting, please contact Charles Tregonning on [REDACTED] or by email: [REDACTED]

Yours faithfully



Lisa Pogonoski
General Manager, Customer Solutions

B1-Q1: 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:

- a) how you currently deal with complaints made through social media channels; and**
- 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.**

We agree that complaints made through social media channels should be dealt with under IDR processes, if the complaint is:

- 1) made on a FF’s own social media platform;
- 2) made by a complainant who is both identifiable and contactable; and
- 3) a genuine expression of dissatisfaction where a response or resolution is expected or required.

Complaints made on Westpac owned social media platforms

Increasingly, social media channels are used by consumers to ask questions, provide feedback, lodge complaints and voice opinions regarding FFs. Westpac currently monitors and responds to complaints posted on Westpac owned social media platforms. This includes, for example, monitoring private messages and public messages published on Westpac’s Facebook, Instagram and Twitter profiles (**Westpac’s Profiles**).

When a complaint is posted or sent directly to one of Westpac’s Profiles, a member of Westpac’s Social Media team will attempt to contact the complainant to confirm the details of the complaint and obtain sufficient information for the complaint to be dealt with. The complaint will then be escalated to the appropriate IDR team within Westpac for resolution. If the complainant does not respond to the Social Media team, the customer interaction will not be recorded as a complaint in Westpac’s complaint management system as the complainant is unable to be identified.

Complaints made on external social media platforms

Complaints made on external social media platforms are unable to be monitored and handled in the same way as complaints made directly on Westpac’s Profiles. The resourcing requirements to monitor external social media platforms would be significant and would detract resources from solving genuine complaints. We consider an external social media platform to be any profile on a social media platform that is not owned by Westpac. For example, a complaint that is made on a complainant’s own social media platform or profile is considered to be an external social media platform, even if the post ‘tags’ a Westpac Profile (with the exception of a Westpac Profile being tagged on Twitter¹).

¹ Unlike other social media platforms, if a complainant ‘tags’ a Westpac Profile on Twitter, the post is addressed to the Westpac Twitter Profile and can be handled in our social media response systems. This does not occur on other social media platforms like Facebook and Instagram.

Definition of complaint

Westpac agrees that RG165 should promote the monitoring of social media for expressions of dissatisfaction. However, in our view this can be achieved without amending the definition to include complaints made “about” a FF. The proposed RG165.36 already states that social media is a legitimate channel for raising complaints and that ASIC expect FFs to be proactive in identifying complaints made on social media channels.

Broadening the definition to include “or about” will result in increased subjectivity in what may be considered a complaint, and creates an ambiguity about an FF’s obligations with respect to comments made on social media platforms which are not clearly directed to the FF. Customers use social media in a variety of ways and for a variety of purposes and a customer who mentions an FF in a social media post on their own channel (i.e. does not address the comment to the FF’s profile) may not expect or welcome a formal response from the FF in the manner required by RG165. The difficulty in determining whether a general negative statement is a genuine complaint within the definition becomes heightened in circumstances where:

- a general negative statement is made on an external social media platform; and/or
- the person who made the statement did not explicitly request a response; and/or
- it is not clear whether the person who made the statement is a customer.

Broadening the definition may also lead to inefficient complaints handling. Resources that could be used to respond to and achieve the right outcomes for customers with legitimate complaints may be redirected to monitor external platforms for expressions of dissatisfaction about an organisation. It will also have implications beyond social media, as the extended definition could potentially capture expressions of dissatisfaction made in any forum, including public protests, speeches and editorials. Pressure on resources may be further increased in determining what constitutes a complaint under the more subjective definition.

Further, there is no clear customer benefit to FFs being required to devote resources to monitor and respond to ‘comments’ from the public that do not contain a clear ‘call to action’.

B2 – Q1 Do you consider that the guidance in draft updated RG 165 on the definition of ‘complaint’ will assist financial firms to accurately identify complaints?

The guidance provided at RG165.32-37 will assist FFs to accurately identify complaints.

B2 - Q2 Is any additional guidance required about the definition of ‘complaint’?

Additional guidance would be beneficial to clearly delineate what is a complaint versus what is negative feedback.

If the proposed amended definition of complaint is adopted, additional guidance around what constitutes a complaint (as opposed to a general negative statement), will assist FFs across the industry to adopt a consistent approach.

It would also be beneficial if ASIC would provide additional guidance around the difference between complaints and generic negative feedback received during the course of negotiations. For example, a customer that is engaged in negotiations may request that a FF lower a fee. While this request could be interpreted as an expression of dissatisfaction requiring a response, we do not believe that in this context the customer was intending to make a complaint, and nor do we believe that it was ASIC's intention for this to be captured by RG165.

In addition, the proposed RG165.29 requires that all expressions of dissatisfaction received by a FF that satisfy the AS/NZ 10002:2014 definition must be dealt with under the FF's IDR process, which in turn must meet the RG165 requirements. The definition of complaint does not require the complainant to be identifiable or contactable for RG165.29 to apply. Guidance from ASIC around the recording, reporting and resolution of complaints where the complainant is not identifiable or contactable would be of assistance.

Objections to decisions of superannuation trustees

CP311 notes at paragraph 40 that FFs appear to differ in whether they treat an objection to a decision about the distribution of a superannuation death benefits as a complaint or not. While Westpac currently does not treat objections as complaints, we acknowledge that dealing with objections under the proposed updated RG165 will provide objectors with the benefits of controls embedded within a FF's IDR processes.

We would therefore welcome clarification and guidance from ASIC on whether an objection should be treated as a complaint. If they are to be treated as complaints, we suggest that specific guidance be provided for the timeframes for this category of complaint, recognising that 45 days will in many cases be insufficient time to resolve the objection given the necessary steps outlined below.

Currently, Westpac does not treat objections as complaints for the following reasons:

- As part of the trustee's obligations to consider the interests of all potential beneficiaries, it undertakes a 'claim staking' process to identify any persons who may be entitled to a benefit. The trustee then forms a preliminary decision on how and to whom the trustee proposes to pay the benefit. This proposal is sent to each person with an interest in the payment of the death benefit explaining that they may object to the proposal by writing to the trustee within 28 days of receiving the letter. At the point that an objection is lodged, the Trustee has not made a final decision and no action has been taken to release any of the benefits. A purpose of notifying persons of their right to object is for the trustee to obtain additional information which may be relevant to consider in making the final decision.
- Not all objections are 'expressions of dissatisfaction'. An objection may in fact be a query about a determination, or to request that a payment is made to an estate instead of an individual.
- The Trustee will not only consider the interests of the person(s) objecting but any impact the information the objector provides on an eligible beneficiary such as minor children and any beneficiary with a disability, financial dependency or an interdependent relationship.

- Dealing with objections is a highly specialised area, often requiring subject matter experts from legal, product and technical management. Trustees are also bound by the Trust Deed and relevant legislation in determining whom they can make payments to.
- At the conclusion of the objection review process, a letter is sent to the objector and all prospective beneficiaries informing them of the decision and the reasons for the decision:
 - o where the original decision is amended, a further 28 days are provided for any further objections to be lodged. If objections were considered to be complaints, it may not be possible to close the complaint until any further objections have been received and resolved; and
 - o where the original decision is not amended, the Trustee issues a final determination affirming the decision and providing details for escalation of the matter to IDR processes or to AFCA.

B3 - Q1 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.

Westpac acknowledges the benefits in aligning the definition of small business for IDR and EDR purposes and does not oppose the proposed modification to the small business definition in the Corporations Act for IDR purposes. However, Westpac recommends that ASIC consider aligning the IDR and BCOP definition of small business once the independent review suggested by the Council of Financial Regulators (CoFR) has been completed and the effects of the changes are known.

Currently, multiple definitions of small business are applied across various legislative and regulatory instruments (e.g. AFCA Rules, Corporations Act, ASIC Act and Banking Code of Practice (BCOP)). The CoFR supported maintaining the current BCOP small business definition on 15 March 2019, with an independent review to be undertaken within 18 months of BCOP’s commencement. This would “allow time for sufficient information to be gathered on the effects of the initial changes and the potential effects of the changes in the small business definition recommended by the Royal Commission.”²

Our view is that further benefits could be achieved by aligning the definition of small business across the different legislative and regulatory instruments, or at least, ensuring they are not inconsistent. This alignment would:

- provide consistent dispute resolution access for small businesses complainants through both IDR and EDR processes;
- provide greater clarity to small businesses, FFs and regulators across a range of contexts;
- promote efficiencies within FFs by simplifying the definitions to be applied; and

² Council of Financial Regulators, Quarterly Statement Media Release Number: 2019:01

- promote consistent reporting across FFs (noting that FFs will have to use best endeavours to assess whether a complainant is a small business for the purpose of reporting complaints data to ASIC. Further submissions on this point are provided in response to B5, below).

B4Q1 Do you agree that firms should record all complaints that they receive? If not, please provide reasons.

Westpac agrees that firms should record all complaints that they receive. This provides for more consistent data to improve complaint handling processes and services as well as informing the organisation as to where improvement could be made to benefit customers more broadly.

We note that a single communication from a complainant may contain multiple complaints. Westpac recommends that communications containing multiple complaints should be:

- recorded and reported as a single complaint if the underlying cause of the complaints are the same; and
- separated into multiple complaints to be individually recorded and reported if the underlying cause of the complaints are different.

Guidance from ASIC on this matter would promote a consistent approach to the reporting and recording of these multi-faceted complaints across FFs.

B5 - Q1 Do you agree that financial firms should assign a unique identifier, which cannot be reused, to each complaint received? If no, please provide reasons.

Westpac agrees that all complaints received should be assigned a unique identifier.

B5 - Q2 Do you consider that the data set proposed in the data dictionary is appropriate? In particular,

- Do the data elements for 'products and services line, category and type' cover all the products and services that your financial firm offers?**
- Do the proposed codes for 'complaint issue' and 'financial compensation' provide adequate detail?**

Westpac suggests the following amendments to the data set:

Data Number	Data Element Name	Proposed Amendment
12	Complainant age	Addition of code 8 "Unknown/Not Stated"
14	Complainant geographic state	Addition of code 11: "Unknown/Not Stated"

Guidance in relation to Data Number 19, 'Complaint Status', suggests that FFs should report that a complaint is 'Withdrawn' if the complaint was "withdrawn by the complainant or contact with the complainant has been lost". Guidance from ASIC on this would be useful, particularly:

- when FFs can determine contact with the complainant has been lost; and
- how this would apply in the context of the proposed RG165.87, which states that “complaint files should not be closed and categorised as resolved without adequately assessing the complainant’s level of satisfaction with the actions taken by the firm.”

In relation to Data Number 36, ‘Financial Compensation’, it would also be helpful if the guidance could clarify whether it is only intended to capture compensation payments or if all related remedies should be included (e.g. fee and interest adjustments, waiver of debts).

Collecting and recording data:

Westpac submits that recording data against the proposed data fields should be completed utilising data that is available. As a result, FFs will only be able to produce data according to the information able to be gathered as part of the complaints handling process.

From our experience, collecting and recording data for each of the data fields for each complaint may not always be possible. For example, if a complaint is made by an individual that is not a customer of Westpac, we are unlikely to be able to obtain or provide data in response to the following data fields: Complainant gender, Complainant age, Aboriginal or Torres Strait Islander descent or Complainant geographic state.

Additionally, Westpac may not have some of the data fields for existing customers, or may be restricted due to privacy requirements from collecting, recording or using these details for complaint related purposes if the complainant does not consent. Given the sensitivities required when handling a complaint, it may be perceived to be inappropriate to ask a complainant for personal or sensitive information,³ or to request permission to record or disclose this information, especially when sensitive information is not required to resolve a complaint.⁴

B6Q1 Do you agree with our proposed requirements for IDR data reporting? In particular:

a) Are the proposed data variables set out in the draft IDR data dictionary appropriate?

Feedback in relation to the proposed data variables is set out above in relation to proposal B5.

b) Is the proposed maximum size of 25 MB for the CSV files adequate?

Initial feedback suggests that the CSV files for each month can range between 5-7MB. Given the reporting to ASIC is expected to occur on a 6 month cycle, we would suggest that 50MB should be sufficient.

³ ‘Sensitive information’ is defined within the Australian Privacy Principles guidelines and includes information or an opinion about an individual’s racial or ethnic origin

⁴ This is acknowledged in the draft updated guide at RG165.182, which states that FFs “can only disclose personally identifiable information if the complainant gives their consent”

- 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?*

Westpac considers that all open complaints should be reported to ASIC, regardless of whether the status has changed since it was last reported. This will allow FFs and ASIC to accurately identify all open complaints during any one reporting period, provide more accurate reporting and assist in recognising long-standing open complaints.

B7 - Q1 What principles should guide ASIC's approach to the publication of IDR data at both aggregate and firm level?

Westpac is supportive of ASIC's proposal to publish IDR data. However, the key objectives in relation to publishing IDR data should be clearly defined.

Currently, it is not clear from CP311 or the proposed updated RG165 what data ASIC is intending to publish, or for what purpose. We note that ASIC intend to conduct a separate, targeted consultation about ASIC's approach and we would appreciate the opportunity to provide feedback as part of that process. It would be helpful if, as part of that process, a sample publication containing proxy data that ASIC intend to publish could be provided for reference. We would be happy to work with ASIC on any proposed approach to publication should that be helpful.

To fully realise any potential benefit to all stakeholders, it is imperative that any comparisons of IDR data are done on a like-for-like basis and are as transparent as possible. The data published by ASIC needs to be clear, easily interpreted and helpful to stakeholders. The published IDR data needs to be presented in a manner which minimises the risk of that data being misinterpreted or misapplied.

In order to ensure that the data is transparent and user friendly to consumers, we recommend that ASIC undertake consumer testing of their final proposal. If the results of the consumer testing indicate that substantial changes may be required to any of the proposals, ASIC should seek further feedback from relevant stakeholders before finalising these requirements.

IDR reporting should be accompanied by material educating stakeholders on how to meaningfully interpret and apply the data, to avoid inferences that may cause unwarranted reputational damage to individual FFs or to specific business areas. An undue focus on the raw number of complaints lodged against an individual FF or business area may create a misleading impression of performance given the scale of some FFs. Accordingly, it is imperative that the messaging that accompanies the initial and ongoing release of IDR data draws appropriate focus to comparative information, for example market share data, and avoids highlighting raw complaints data.

B8 - Q1 Do you agree with our minimum content requirements for IDR responses? If not, why not?

Westpac agrees with the minimum content requirements for IDR responses.

ASIC should also be aware of legal requirements that may preclude fulsome answers being provided in IDR responses (e.g. tipping off provisions and Suspicious Matter Reporting under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006; certain matters relating to ongoing law enforcement investigations). In these instances, which are likely to be rare, the requirements of RG 165 should contain appropriate exemptions or carve outs to the extent any express legal requirements prevent compliance. This matter has been considered in consultation for BCOP provisions, and appropriate allowances made for those scenarios.

B9 - Q1 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.

This approach appears to be appropriate given the requirements of RG165 will apply to superannuation trustees and be enforceable.

We note that the footnote to RG165.11 states that ASIC “will issue a legislative instrument that will make the core IDR requirements set out [in] this guide enforceable”, though the core IDR requirements are not defined or identified in RG165 or CP311. We would welcome clarification from ASIC on the core IDR requirements in advance of the publication of the updated RG165.

Please also note our submissions in relation to proposal B2, requesting clarification from ASIC on whether objections to decisions by superannuation trustees should be treated as complaints under IDR processes.

B10 - Q1 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.

The requirements proposed in the draft updated RG165.74-77 adequately sets out the minimum content requirements for IDR responses provided by superannuation trustees. To provide more prescriptive requirements may unnecessarily complicate the process or the IDR response provided to complainants.

B11 - Q1 Do you agree with our proposals to reduce the maximum IDR timeframes? If not, please provide:

- a) reasons and any proposals for alternative maximum IDR timeframes; and
- b) if you are a financial firm, data about your firm’s current complaint resolution timeframes by product line.

Westpac agrees that timeliness is a key factor in effective complaint management and providing positive customer outcomes and we are committed to providing IDR responses efficiently. The

majority of complaints that are received by Westpac are currently resolved within 30 days. However there are some areas where, for good reason, additional time may be required.

- **Standard Complaints:** We support the reduction in maximum IDR timeframes to 30 days for standard complaints. In the 2018 financial year, Westpac resolved 96% of all consumer bank complaints and 91% of all business bank complaints in under 30 days (while 98% and 95%, respectively, were resolved within 45 business days).
- **Complex complaints in responsible lending:** We do not support the reduction in timeframe for complaints relating to responsible lending. These complaints typically involve significant reviews and require large quantities of information from various sources including archives, external third parties and the complainant. In the 2018 financial year, Westpac resolved 86% of consumer bank responsible lending complaints⁵, and 82% of business bank responsible lending complaints in 45 days. Seeking to further compress this timeframe to 30 days will be challenging, as 58% of responsible lending complaints in Consumer Bank and 64% in Business Bank were resolved in 30 days.
- **For complex complaints in the areas of financial advice, general and life insurance and superannuation,** these matters can require significant investigation or information gathering and require an extended period of time to adequately respond to the complaint. We do not support the reduction in timeframe for these types of complaints.
 - Complaints regarding **financial advice** frequently involve significant reviews and require large quantities of information from various sources including archives, external third parties and the complainant.
 - Similarly, **insurance complaints** (both general and life) often require extensive investigations and require information from external third parties (*i.e.* medical records or reports).
 - **Superannuation complaints** often involve complex issues, including in relation to insurance and taxation, or if the member has often been a member/customer for many years requiring the sourcing of historic trust deeds and disclosure documents. Superannuation trustees often need to deal with external third parties, such as lawyers, insurers, medical practitioners and others before being able to provide a considered response to a complaint.
- Further, it should be considered that complaints made by **vulnerable consumers** often require consideration of factors such as the complainant's mental or physical health, which can lead to delays in the complaint handling process outside of the FF's control. In such cases, it may not be appropriate to seek to deliver the outcome in the same timeframe. We are guided by the needs of the individual and a full assessment of their circumstances and compressing timeframes here may lead to poor outcomes for vulnerable customers and run counter to the 'extra care' we provide under the requirements of the Banking Code of Practice.

⁵ For the purposes of this response, a complaint regarding 'responsible lending' covers a range of complaints that relate to responsible lending decisions, including, for example, complaints by individuals that were declined a loan as they did not meet serviceability requirements.

Focusing on timeframes over thorough and considered responses could result in less informed decisions being made in complex matters, leading to a diminishing in the quality of decisions. Where complaints are complex or require extensive investigation, the timeframe should be secondary to providing fair outcomes and a supportive process.

Devoting additional resources to complex complaints cannot always reduce the time required to resolve these types of complaints. Frequently, it is the circumstances surrounding the complaint and the complainant that determine the process that needs to be followed and the time required to resolve the complaint. Compressing timeframes also has the potential to increase the number of complaints referred to EDR schemes, where the FF has not been able to devote the requisite time to carry out a full and thorough investigation. This would result in a more protracted and stressful experience for complainants, as well as putting additional pressure on AFCA resources.

Exceptional circumstances

To provide clarity to FFs about the handling of complex cases, we consider it is important that ASIC provide sufficient guidance and examples of what may be considered to be 'exceptional circumstances'. This would clarify for FFs what options are available to them to appropriately handle complex cases, including the expectations in dealing with timeframes accordingly.

It would also allow FFs to provide objective guidelines to complaints staff as to when it is appropriate to extend the maximum IDR timeframe and issue an IDR delay notification. We believe that examples of exceptional circumstances should include:

- the historic nature of the issues raised;
- the complexity of the issues raised;
- involvement of multiple parties (*e.g.* multiple complainants or FFs);
- the availability or need for information from sources outside of FFs, including the complainant or a third party (and readily available documents);
- involvement of an authorised third party acting on behalf of the complainant;
- circumstances of vulnerable customers;
- difficulties communicating with the complainant that are outside of the FF's control; and
- delays at the request of the complainant.

To ensure the quantity of complaints that are handled outside of the maximum IDR timeframes is reasonable and appropriate, we would welcome the opportunity to work with ASIC to establish appropriate monitoring and oversight in relation to the application of exceptional circumstances. For example, this could involve FFs monitoring the quantity or percentage of complaints that are dealt with outside the maximum IDR timeframes are within an appropriate range.

Breach reporting

We note that ASIC is considering providing guidance on when FFs that fail to meet the maximum IDR timeframes must submit a breach report to ASIC for failing to comply with s912A(1)(g)(i) of the Corporations Act. It is our view that complaints that are unable to be responded within maximum IDR timeframes due to 'exceptional circumstances' (discussed above) should be excluded from any assessment on whether a firm has failed to comply with s912A(1)(g)(i). Factors that result in

‘exceptional circumstances’ are frequently outside of the FFs’ control and/or the complaint requires significant investigation or information gathering to reach a fair outcome. Requiring FFs to breach report where the circumstances we have listed above exist would not promote the right customer outcomes.

In addition, we submit that guidance provided by ASIC on this requirement should take into account the number and frequency of IDR responses provided outside the maximum IDR timeframes (excluding cases that have ‘exceptional circumstances’) compared to the number and frequency of IDR responses provided within the maximum IDR timeframes during the same period. This could be defined as a percentage of all complaints, similar to the systemic issues threshold assessment required under RG165.129, to be assessed by FFs when considering their breach reporting requirements.

B11 – Q2 We consider that there is merit in moving towards a single IDR maximum timeframe for all complaints (other than the exceptions relating to credit complaints involving hardship notices and/or requests to postpone enforcement proceedings and default notices where the maximum timeframe is generally 21 days). Is there any evidence for not setting a 30-day maximum IDR timeframe for all complaints now?

For the reasons outlined above, we support the reduction in maximum IDR timeframes to 30 days for standard complaints, however for more complex matters, specifically for complaints from vulnerable customers; and in the areas of responsible lending, financial advice, general and life insurance and superannuation, we do not support the proposed reduction.

In relation to superannuation complaints, the draft updated RG165 suggests reducing the maximum IDR timeframe from 90 days to 45 days. To further reduce the maximum IDR timeframe for superannuation complaints from 90 days to 30 days is a significant further reduction and we do not believe it will result in better outcomes for customers given the complexities and extensive investigations that are often involved in relation to superannuation complaints. We note that the Insurance in Superannuation Voluntary Code of Practice requires complaint responses to be provided within 45 days or in exceptional circumstances, where further time is required to investigate, up to 90 days.

B12 - Q1 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.

Given the Customer Advocate role within FFs was introduced in the second half of 2016, we believe that changes to the Customer Advocate (CA) role and function at this stage are premature. We submit that a further review of resolution timeframes and regulation considerations should be conducted once the CA function has further matured and AFCA’s Legacy review is complete.

Further submissions regarding Westpac’s CA model is detailed in response to question 2, below.

B12 - Q2 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.

As above, we believe that changes to the CA role are premature. In the interim, we propose that ASIC take initial steps to deliver greater consistency and clarity to customers in relation to the role and function of CAs. To increase transparency and efficiency, we are currently implementing the recommendations of the 'Customer Advocate Review: Post-Implementation Review' (April 2019), commissioned by the Australian Banking Association, which includes:

- A common narration to appear in IDR resolution letters across the industry to ensure that the AFCA and Advocate options are consistently explained and understood.
- Introduction of common terms of reference in relation to the escalated complaints service - considering a common scope on factors such as timeframes.
- The CA to comply with existing IDR final letter standards to ensure customers receive a comprehensive response.
- Formalisation of the AFCA 2 year period post CA resolution offer to ensure a full 2 years for customers to escalate to AFCA.
- Common reporting across the industry on CA decisions e.g. on Substitutes, Enhanced or Upheld to provide greater customer transparency.

We agree that any additional time taken by the CA should not 'eat into' a customer's later rights with respect to RG165.117 and we currently provide an AFCA disclosure to the customer at the conclusion of the Advocate review so as not to erode the two year timeframe for AFCA referrals.

Westpac's CA has been appointed to enhance our complaint resolution process and acts as a point of escalation outside of Westpac's IDR process. All complaints are responded to at the conclusion of the IDR stage providing clear information on escalation options if the complainant is not satisfied with the outcome, by directing them to:

- 1) refer their complaint to AFCA; or
- 2) seek a second review from the CA (and then with the clear option to go to AFCA if they remain dissatisfied with the CA review).

Our experience is that only a small subset of customers choose to have their complaints reviewed by the CA and these are, on balance more complex cases involving responsible lending, financial advice and insurance. Approximately 1% of all complaints received are escalated by customers to the CA. We see this choice of escalation path outside IDR timeframes as an important option for our customers, especially in cases where the customer complaint sits outside AFCA terms of reference or the customer is vulnerable and so, more often than not, needing additional support to make their complaint.

Customers come to the CA with an expectation that we examine their complaint with fresh eyes and we clearly advise customers about additional time required to respond in these circumstances. The

CA provides a detailed, deep dive review of a complaint and often explores the customer's circumstances beyond the articulated complaint enabling Westpac to better assist the customer and draw out the totality of their complaint. This is especially important for vulnerable customers who often struggle to articulate their concerns fully and may have low financial literacy. The unintended consequence of folding the role of the CA into the IDR timeframes may increase referrals to AFCA, that could be more efficiently and effectively dealt with by the CA, particularly those involving vulnerable customers.

Importantly, the CA operates with a broader Terms of Reference than AFCA and so provides a service for customers who might otherwise not have an escalation option available to them other than a court. In some cases, customers seek a CA review post an AFCA determination in order to address the issues that AFCA could not consider. The CA is therefore in a position to provide insight and feedback that may not otherwise be identified by AFCA (in addition to insights that the CA provides regarding improvements to the IDR process). Examples include complaints where:

- the AFCA deadline of 2 years since IDR letter has already expired;
- the complaint relates to historical dealings beyond AFCA's legacy complaints review (which covers conduct that occurred on or after 1 January 2008);
- court orders have been sought, such as possession orders or bankruptcy proceedings (in particular where these are undefended or not well defended, meaning there has been no real review by a court of the merits of the customer's case) and family court orders; or
- the complaint relates to issues outside AFCA's remedy scope e.g. cases where compensation being sought exceeds AFCA compensation caps or relates to areas AFCA cannot resolve e.g. provision of credit or the reversal of an exit decision.

We believe that Westpac's model provides real value for customers and this belief is supported by positive feedback received from consumer advocates, customers themselves, and AFCA in cases that have later progressed to AFCA. Data relating to the CA's decisions are published in the WBG annual Sustainability Report. The most recent 12 months data (July 2018 - June 2019) shows:

- 71% of customers have provided positive acknowledgments or a compliment relating to their CA experience; and
- 57% of CA complaints have been resolved in under 45 calendar days with an average time to resolution for all Advocate complaints of 52 calendar days.

B13 - Q1 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.

We agree with the proposals for strengthening the accountability framework and the identification, escalation and reporting of systemic issues provided in RG165. We would, however, appreciate further clarity from ASIC as to the definition of systemic issues to ensure that appropriate thresholds are set and provide alignment across the industry. This would also assist with training of staff to help identify systemic issues and trends.

At Westpac, our current framework requires staff to consider potential systemic issues and we regularly analyse data sets for escalation. For example:

- the Group Complaints Standard requires that complaints arising from our systems, processes or procedures that result in a risk the same mistake will be repeated or the same issue will arise for our customers should be prioritised and considered for escalation;
- Westpac's Risk and Control Management process requires that when an issue or incident is identified, it is entered into JUNO, Westpac Group's risk and compliance management system. JUNO is used to manage operational or compliance risk events and any incidents that are identified as requiring further investigation (including potentially systemic issues) will be reviewed and escalated as appropriate;
- we maintain an 'Improvements Register', where complaints management staff enter any issues they encounter. The Customer and Corporate Relations team review and collate by business unit (e.g. product and distribution) for weekly review by General Managers to consider as part of product life cycle reviews; and
- we use Artificial Intelligence to read the verbatim of complaints and a dashboard provides a summary of key issues. This intelligence is packaged with analysis from the 'Improvements Register' on a monthly basis, with data on the volume of complaints; root causes at a thematic level; and a list of all entries on the improvement register. This pack is then the basis for the discussion at Westpac's Root Cause Forum with the Chief Executive Officer, the Group Executive of Customer and Corporate Relations, General Manager of Customer Solutions and General Managers of product and distribution areas.

We currently provide the Westpac Board with regular updates on volumes of complaints and thematic trends.

B14 - Q1 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.

Westpac agrees that the IDR standards in section F of the draft proposed RG165 are appropriate and can be adapted by FFs to suit the nature, scale and complexity of their business. It would however, be helpful for ASIC to confirm that if there is an inconsistency between AS/NZS 10002:2014 and RG165, that the requirements in RG165 will prevail.

B15 - Q1 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.

The introductory section of CP311 states that the revised RG165 and legislative instruments are expected to be released by ASIC in December 2019. Whilst Westpac has already commenced work to implement changes to existing IDR processes, we make the following submissions in relation to the proposed transitional periods.

Transitional Period: Reduced maximum IDR timeframes

The transition period proposed for this requirement is 31 March 2020. As noted in response to B11, the proposed reduced maximum IDR timeframes will have a significant impact on our current complaint handling processes.

Westpac anticipates that, if adopted, there will be significant resourcing changes required to increase the number of FTE staff handling complaints and support staff across key business areas to speed up response times, by approximately 22%. New and existing staff will also require training in relation to the new requirements and processes. We will endeavour to implement these changes as quickly as possible, however we are cognisant that recruitment is challenging in the current market with AFCA having recently scaled up rapidly, and with complaint teams being built out simultaneously across the industry in response to recent and proposed changes. We also note AFCA's recent experience in scaling up quickly, with the need to on-board and train new staff has required a transition period before they can reach full efficiency.

An extension to the transitional period to 31 December 2020 for this requirement will allow for additional time for staff and process changes to be embedded and for appropriate compliance testing to be completed.

In addition, we note that the current proposed transition period for this requirement also coincides with AFCA's legacy complaints review. Under the terms of the AFCA Operational Guidelines for the legacy review, AFCA will review legacy complaints relating to conduct that occurred on or after 1 January 2008 lodged with AFCA between 1 July 2019 and 30 June 2020. While it is not expected that new complaints to AFCA will be dealt with under the legacy complaints review, Westpac anticipates that the number of complaints that are referred to AFCA are likely to increase if complaints cannot be resolved within the proposed maximum IDR timeframes.

Extending the transitional period to 31 December 2020 would prevent an overlap between the AFCA legacy review and the new maximum IDR timeframe requirement. This would reduce the quantity of complaints that are referred to AFCA during this look-back period (which may impact on AFCA's resources) and is likely to provide faster AFCA resolutions and better customer outcomes.

Transitional Period: Recording all complaints

The transitional period for this requirement appears to be appropriate.

Transitional Period: Assigning unique identifiers and recording prescribed data for every complaint received

Westpac has commenced a project to incorporate the new data recording requirements under the proposed updated RG165. This is primarily an operational project to incorporate technology solutions, though it will also require significant updates to policies, procedures and training to ensure that data is collected and input onto complaint systems appropriately.

The transitional period for the reporting of IDR data to ASIC is proposed to commence on 30 June 2021 and will require the reporting of complaint data on a six-monthly cycle. To allow for technology solutions to be implemented and tested, and to align with the reporting of data to ASIC

on 30 June 2021, we consider that the transition period for the assigning of unique identifiers and recording of prescribed data should commence on 31 December 2020.

Transitional Period: Reporting of IDR data to ASIC

This transitional period appears to be appropriate.

B15 - Q2 Should any further transitional periods be provided for other requirements in draft updated RG 165? If yes, please provide reasons.

Comments on CP311 and the proposed RG165 are due 9 August 2019, after which, the next step is for the revised RG165 and legislative instruments to be released on 9 December 2019. It is not clear what advance notice, if any, ASIC intend on providing FFs of the final form of RG165.

Given the quantity of changes that are proposed to RG165 that will require changes to Westpac's processes and systems, and any further changes that may arise following the consultation process, a transitional period of at least twelve months from the date of the release of RG165 should be provided to FFs to implement the new IDR requirements (outside of those with specific transitional periods).