

9 August 2019

BY EMAIL

Jacqueline Rush
Senior Policy Adviser
Australian Securities and Investments Commission
PO Box 9827
MELBOURNE VIC 3001

By email: IDRSubmissions@asic.gov.au

Dear Ms Rush

RE: Consultation Paper 311 – RateSetter Submission

RateSetter Background

RateSetter Australia RE Limited (**RateSetter**) is a leading Australian peer-to-peer lending operator. RateSetter holds Australian financial service licence (**AFSL**) number 449176 and Australian credit licence (**ACL**) number 449176 and is the responsible entity of the RateSetter Lending Platform (ARSN 169 500 449) and trustee of the RateSetter Wholesale Lending Platform.

Since our launch in 2014, RateSetter has facilitated over \$500 million in consumer loans across unsecured and secured personal loans, secured automotive loans and loans for the purchase of clean energy equipment such as solar panels and batteries.

RateSetter is pleased to make a submission on certain proposed changes to Regulatory Guide 165 as set out in Consultation Paper 311 (CP311). Heading and paragraph references in this document relate to CP311 unless indicated.

1. Proposal B4: Recording all complaints received

ASIC proposes to modify the current guidance set out in RG 165.80 that a financial firm should record a complaint where it is not resolved to the customer's satisfaction by the end of the fifth business day, in favour of a requirement to record all complaints received, including those resolved at the first point of contact. The purpose of this proposal is to, *inter alia*, improve the data provided under the proposed mandatory IDR reporting regime. RateSetter does not consider that a financial firm should be compelled to record all complaints that they receive and that the current guidance remains appropriate.

In addition to the significant additional time, training and implementation cost that such a proposal would require, particularly in light of the expansive data to be reported to ASIC, we disagree with ASIC's contention at paragraph 50 that this would remove discretion in relation to reporting requirements. We consider it would only serve to shift the discretion from a question of whether to *record* a complaint, to whether something *is* a complaint, which may result in inconsistent reporting across lenders.

Despite proposal B2 to provide additional guidance on what is and isn't classified as a complaint this assessment will, by its nature, always involve a level of subjectivity. This is particularly so in relation to issues which are immediately resolved to a customer's satisfaction.

As an amendment to the proposal, ASIC might consider updating its guidance to reduce the timeframe after which a financial firm is required to record a complaint from five business days to three business days. We consider this is an appropriate solution because it would largely eliminate the discretion we noted above (as it would be difficult to suggest a dispute spanning beyond three business days is not

a complaint) and is consistent overall with the aims of the updated guidance. In particular, this would be complementary to and consistent with proposal B11 to reduce maximum IDR timeframes.

2. *Proposal B6: IDR data reporting*

In general, we do not object to ASIC's proposed reporting requirements, but have provided feedback in relation to specific data variables:

- **Table 3, Number 13: Aboriginal or Torres Strait Islander descent**

RateSetter does not currently collect information regarding a person's Aboriginal or Torres Strait Island descent, because, in accordance with APP 3.2, it is not reasonably necessary for our activities. We consider that collection of this sensitive information from a person at the time they complain about the provision of financial services for the sole purpose of reporting that information to ASIC is not appropriate, would be considered overly intrusive by customers, and has the potential of further escalating a dispute.

In lieu of removing the data element in its entirety, ASIC should provide explicit guidance in the updated regulatory guide that a financial firm is not compelled to collect demographic data that it does not ordinarily collect in the scope of its operations.

- **Table 4, Number 21: Complainant's desired outcome**
Table 4, Number 33: Description of complaint issue
Table 4, Number 37: Description of outcome and/or remedies

Each of these three data points requires the financial firm provide a free-text response of no more than 4,000 characters. While we do not object to the reporting of this data, we consider that the free-text commentary requirement will add significant time, cost and complexity in preparing and submitting these reports to ASIC, which is disproportionate to the potential gain in useful data to ASIC. Given the scale of complaint information received, we query whether free-text information would be always valuable to ASIC in analysing the data provided on an aggregated basis. Further, unlike other coded data elements – which can be integrated into reporting systems – free-text responses require time from compliance officers to prepare, verify and submit. There is a risk therefore that financial firms may use pro-forma or template descriptions, which is unlikely to improve the quality or usefulness of the information provided to ASIC.

While we appreciate that there is a very broad spectrum of complaint issues and outcomes that may be sought by consumers, we suggest an alternative that ASIC should specify and assign codes to detailed categorisation choices in the same manner as other data elements, which can then be used by financial firms in their reporting. Where ASIC seeks further information in relation to a specific complaint or series of complaints, it should request it from the financial firm.

- **Table 4, Number 31: Product or service type**

We would suggest ASIC add an additional product and service number type of "peer-to-peer or marketplace lender". This separation from other managed investment products would serve to improve the accuracy of reporting and provide meaningful analysis for ASIC, market participants, and consumers as the peer-to-peer and marketplace lending industry expands in Australia.

3. *Proposal B7: publication of IDR data*

Given the limited information set out in the consultation paper about the means and content of ASIC's intended publication of IDR data, we are not presently in a position to provide substantive feedback in relation to this proposal, though we note that ASIC intends on undertaking a separate consultation in relation to the publication of IDR data and would welcome the opportunity provide a submission in relation to that consultation.

Final remarks

If desired, RateSetter would be pleased to meet with ASIC to provide further information in relation to our perspectives on this consultation paper. Please do not hesitate to contact me on [REDACTED] or if you would like to meet or discuss our submission in further detail.

Yours truly



Ben Milsom
Director
RateSetter Australia RE Limited