

16 April 2021

Mr Andrew Fawcett
Senior Executive Leader, Strategic Policy
Australian Securities and Investments Commission

Via email: [REDACTED]

Dear Mr Fawcett

ASIC's 2019-20 Self-Assessment against the Regulator Performance Framework

The Customer Owned Banking Association (COBA) welcomes the opportunity to comment on ASIC's draft self-assessment of its performance against the Australian Government's Regulator Performance Framework (RPF) over the 2019-20 reporting period.

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). Collectively, our sector has \$146 billion in assets, around 10 per cent of the household deposits market and more than 4 million customers. Customer owned banking institutions account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition, choice and market leading levels of customer satisfaction in the retail banking market.

COBA highly values its relationship and positive interactions with ASIC, including our regular liaison meetings.

We agree that ASIC's performance against the RPF key performance indicators (KPIs) demonstrates a strong commitment to achieving the objectives of the RPF.

The 2019-20 period covers the onset of the COVID-19 pandemic and government responses to the pandemic. COBA agrees with ASIC's observation that the pandemic presented significant challenges for the Australian community, ASIC's regulated population and for ASIC itself and that ASIC responded quickly and strategically to ensure that the financial system, although under stress, continued to be strong and efficient.

Costs of regulation are a major issue for COBA members so we appreciate ASIC's attention to KPIs 1 and 6:

- Regulators do not unnecessarily impede the efficient operation of regulated entities and
- Regulators actively contribute to continuous improvement of regulatory frameworks.

In particular, we note ASIC's decision to defer commencement of the design and distribution obligations from April 2021 to October 2021. We also acknowledge ASIC's swift and positive response

to the application by the ABA and COBA for regulatory relief to allow the fast-tracking of issuance of scheme and dual network debit cards.

COBA appreciates ASIC's commitment to KPIs 2 and 5:

- Communication with regulated entities is clear, targeted and effective, and
- Regulators are open and transparent in their dealings with regulated entities.

As noted above, COBA values our regular liaison meetings with ASIC and these continued effectively in 2019-20. In addition, during the most challenging period of the pandemic, COBA and COBA members greatly appreciated the opportunity to meet regularly with Commissioner Sean Hughes and Senior Executive Leader, Credit, Retail Banking and Payments, Tim Gough.

COBA members appreciated the publication by ASIC of guidance and other information about ASIC's regulatory work and priorities in response to COVID-19 including links to new and updated regulatory documents (including instruments related to COVID-19).

One area where there is room for improvement is the communication and transparency of changes in industry funding costs.

Over the 2019-20, there has been a significant increase in the credit provider levy rate from 2018-19, despite ASIC's draft Cost Recovery Implementation Statement (CRIS) and even final CRIS outlining only a moderate increase. While there could be factors beyond ASIC's control, this creates a 'bill shock' for regulated entities that are subject to significantly increasing industry levies.

Financial Year	Reference	Recovery amount	No of entities	Rate per \$10,000 of credit provided	vs. 2018-19
2019-20	Actual Levies (Nov 2020)	\$27.307m	1,096	\$0.51	50%
2019-20	Final CRIS (Mar 2021), pg. 53	\$23.322m	1,149	\$0.41	21%
2019-20	Draft CRIS (Jun 2020), pg. 53	\$23.322m	1,149	\$0.41	21%
2018-19	Actual Levies (Dec 2019)	\$19.754m	1,149	\$0.34	NA

COBA notes that this situation is created due to a lack of smoothing in ASIC's regulatory costs, or their recovery from industry. Rapid strategic shifts towards certain industries, for example, credit providers, can result in significant changes in year-on-year levies for regulated entities despite the apportionment method saying the same. While COBA supports a fair sharing of regulatory costs, it is very difficult for entities to maintain confidence in the consistency of their regulatory costs based on this model.

COBA's 2016 submission on the ASIC funding model outlined our concerns about the impact of significant strategic shifts and suggested that the "Government should provide information on potential cost variability to give entities a reasonable indication of the range of future levies".

Related to the credit provider levy, the Government is currently proposing to simplify the current responsible lending obligations. COBA strongly supports these changes. However, ASIC must consider how to recover the costs of any additional regulatory intensity required for non-ADIs from the non-ADI population and not the general population of credit providers which includes ADIs. If this is not addressed, then ADIs may end up cross-subsidising ASIC's supervisory work on non-ADI lending standards while also paying for APRA's supervisory work on ADI lending standards.

Please do not hesitate to contact Luke Lawler ([REDACTED]) to discuss any aspect of this letter.

Yours sincerely,

[REDACTED]

MICHAEL LAWRENCE
Chief Executive Officer