

7 February 2025

██████████
Senior Executive Leader
Regulatory Reform and Implementation
Australian Securities and Investments Commission

By email: ██████████

Dear ██████████

Proposed remake of ASIC Class Order [CO 14/1262] Relief for 31-day notice term deposits

COBA welcomes the opportunity to respond to the Australian Securities and Investments Commission (ASIC) on CS 12 Proposed remake of ASIC Class Order [\[CO 14/1262\]](#) Relief for 31-day notice term deposits. We thank ASIC for their ongoing engagement with COBA in relation to this consultation.

COBA is the industry association for Australia's customer owned banks (mutual banks, credit unions and building societies). Collectively, our sector has over \$179 billion in assets and is the fifth largest holder of household deposits. Customer-owned banks (i.e. mutual banks) account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

As smaller banks, customer-owned banks can be subject to 'one size fits all' regulation aimed at much larger entities with more resources and who serve much broader demographics. To this end, COBA welcomes measures by ASIC that reduce regulatory complexity while promoting flexibility, innovation and positive consumer outcomes.

Support for remaking ASIC Class Order [CO 14/1262]

COBA strongly supports remaking ASIC Class Order [CO 14/1262] Relief for 31-day notice term deposits, giving 31-day notice term deposits of up to five years concessional regulatory treatment as 'basic deposit products' under the *Corporations Act 2001*. We are also of the view that consideration should be given in the future to making this relief permanent through legislation.

Option of combining pre and post maturity notices

COBA welcomes ASIC's proposal to remake the legislative instrument and give ADIs the *option* of combining the pre-maturity and post-maturity notices into a single notice. This will allow ADIs to choose the best approach that suits them.

As a condition of the current Class Order [CO 14/1262] relief, ADIs are required to provide two notices to depositors:

- a 'pre-maturity notice': issued before the term deposit rolls over into a new term; and
- a 'post-maturity notice': notifying depositors of a grace period of seven days to exit the term deposit.

Moving to a single notice can result in operational and postage savings for members as post remains the predominant communication means for these products. While savings vary between members, one member estimated the cost of term deposit maturity notice at \$1.50 per notice and another member highlights that combination of notices will effectively halve costs as all the notices for that product are sent by post. The proposal will also ease the burden of having to provide a notice within one business day after the maturity of a product.

However, it is important to highlight that not all members may choose to opt in for the combined single notice option and some COBA members prefer continuing with the current approach. It is therefore important for our members to be able to maintain the current pre- and post-maturity notice practice should they choose to do so. At least one COBA member highlights that the move to one notice may involve considerable operational costs in setting up new process and systems. As some of our members operate multiple brands, this may involve different projects for different systems, taking resources away from other key priorities projects. We therefore encourage ASIC to provide the option of a single notice for ADIs that choose to do so, while allowing the current arrangement to continue for ADIs that prefer maintaining the status quo.

COBA members who may wish to maintain the current two notice arrangement have expressed that the current post-maturity timeframe to provide notices is challenging. A longer timeframe allowing further flexibility would be widely welcomed by our members.

Complexity of [CO 14/1262]

In reviewing this consultation, our members have highlighted the complexity of the current class order. COBA welcomes additional guidance from ASIC in relation to the practical operation and implications of [CO 14/1262], setting out ASIC's expectations. This will assist stakeholders with interpretation and compliance with this class order relief. For example, guidance can include clarification from ASIC whether postage delays of up to 7 days from the issue of the notice are acceptable for the requirements of [CO 14/1262] provided that an ADI issues a notice within one business day for post-maturity notices.

We also take this opportunity to bring to ASIC's attention that the [Explanatory Memorandum](#) published with the original class order is no longer accessible through ASIC Media Release ([14-347MR](#)). Clearly accessible explanatory materials will be beneficial to our members when interpreting this class order relief.

Applicable interest rates

As identified by ASIC, the new combined notice approach may cause challenges or confusion in relation to the applicable rate that will apply to the new rolled over product, as the precise applicable rate may not be known at the time of the notice. One suggestion by a COBA member is referring customers to a source such as the ADI's website or internet banking to ascertain applicable rates. We continue to engage with our members on ASIC's more recent query and will advise any further feedback by 14 February.

Consent under section 12DL of the ASIC Act

COBA takes this opportunity to invite ASIC to review other regulatory requirements where communications with consumers may be streamlined or made more in a more flexible manner. For example, in the course of consulting with our members on [CO 14/1262], a COBA member has highlighted that section 12DL of the *ASIC Act 2001* and [Regulatory Guide 201 Unsolicited credit cards and debit cards](#) requires ADIs to obtain written consent prior to issue of a debit card. The member has expressed that the requirement for the consent to be in writing is overly restrictive and challenging, particularly in a call centre environment, where verbal recorded consent is possible. We therefore invite ASIC to review this requirement and consider whether further guidance or relief may be appropriate in this case. We note that there appears to be recent shift towards obtaining customer consent more flexibly in some circumstances, for example, under the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024*.

Thank you for taking the time to consider our submission. If you have any queries, please contact

[REDACTED]

Yours sincerely

[REDACTED]

[REDACTED]

Chief Executive Officer