

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
AND
THE AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY

1. Introduction

- 1.1. Supporting a competitive and efficient financial system for the benefit of all Australians is a key focus of both the Australian Competition and Consumer Commission (ACCC) and the Australian Prudential Regulation Authority (APRA) (together, the agencies). A competitive, well-regulated and stable financial system is important for delivering better consumer outcomes through lower prices, better quality products and services, and greater choice.

2. Purpose

- 2.1. This Memorandum of Understanding (MoU) sets out the agreed basis for engagement, including coordination, cooperation, and information sharing, between the ACCC and APRA. The arrangements in this MoU will be implemented in accordance with relevant requirements under each agency's governing legislation.
- 2.2. This MoU reflects the agencies' intention to maintain a proactive, open and collaborative relationship.
- 2.3. The agencies may, by agreement in writing, establish supplementary protocols and guidelines to operate under this MoU.

3. Responsibilities

- 3.1. Although the ACCC and APRA have distinct mandates and responsibilities, they both have a common role in protecting and delivering benefits for all Australians.
- 3.2. The ACCC is responsible for enhancing the welfare of Australians through the enforcement and promotion of competition in financial services, including through the investigation of alleged anti-competitive conduct, and review of acquisitions that may substantially lessen competition. The ACCC also proactively examines competition issues in financial services, and has responsibility for implementing the Consumer Data Right reforms.
- 3.3. APRA is tasked with protecting the financial well-being of the Australian community. It does this through the regulatory oversight of financial entities with the objective of protecting the interests of depositors, insurance policyholders and superannuation fund members. It is also required to balance the objectives of financial safety and efficiency, competition, contestability and competitive neutrality and, in balancing these objectives, is to promote financial system stability.

4. Agreement to engage

- 4.1. The agencies recognise the importance of mutual consultation and cooperation in the effective discharge of their respective responsibilities.

4.2. Each agency commits to developing and maintaining effective arrangements for engagement and, in accordance with legislative obligations and agreed protocols, having regard to each other's mandate and broader regulatory objectives.

4.3. Under the arrangements, each agency will:

- inform - proactively provide information and documents that are relevant to the other agency and respond promptly to information and document requests, where appropriate;
- consult - where one agency is considering or undertaking an activity that has an impact on the other agency's responsibilities;
- collaborate - seek input from, or collaboration with, the other agency to achieve or improve regulatory outcomes, particularly in policy development and consultation with industry and statistical collections; and
- engage effectively - seek to improve the efficiency of its interaction with the other agency and, in areas of common interest, the efficiency and effectiveness of interaction with industry participants.

4.4. The agencies agree to a proactive approach to engagement, which will include regular, senior-level liaison meetings (including between the heads of the agencies); mechanisms to share perspectives and expertise on relevant issues; and, where appropriate, staff secondments and training.

5. Information Sharing

5.1. The agencies acknowledge the benefits of sharing information that will assist each other in performing their functions and exercising their powers.

5.2. The agencies acknowledge that market participants and other stakeholders may provide commercially sensitive information, or other information, on a confidential basis. In some circumstances, this information may be subject to statutory confidentiality, secrecy and non-disclosure obligations.

5.3. The agencies may share, to the extent possible, information relevant to competition in the financial system, or the financial or prudential soundness of regulated financial institutions, with each other. This is subject to any statutory secrecy and non-disclosure obligations, other confidentiality and information-sharing obligations, or any other constraints. The agencies agree to adhere to any conditions imposed by the disclosing agency or any other terms required.

5.4. The agencies acknowledge that, in some circumstances, it will not be appropriate to share certain information with each other.

5.5. The agencies agree not to disclose any confidential information obtained under this MoU to a third party unless prior consent has been obtained from the originating agency.

5.6. The agencies acknowledge that there are circumstances where disclosure may be required, authorised or permitted by law. In such cases, the agencies will advise the other agency in advance of any proposed disclosure, where possible.

6. Administration of MoU

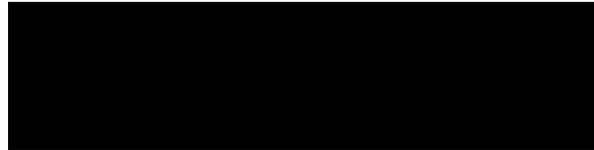
6.1. The agencies may review the operation of the MoU (including any supplementary protocols and guidelines) on a periodic basis and consult with each other about improving the operation of the MoU where necessary. Any part of this MoU may be amended at any time with the mutual agreement of both agencies in writing.

6.2. The agencies agree that this MoU may be published on each agency's website.



Rod Sims
Chair
Australian Competition and Consumer
Commission

Date: 28 August 2020



Wayne Byres
Chair
Australian Prudential Regulation
Authority

Date: 28 August 2020