10 April 2020

Mr Tim Gough
Senior Executive Leader – Credit, Retail Banking & Payments
Australian Securities and Investments Commission

By email: applications@asic.gov.au
Cc: tim.gough@asic.gov.au

Dear Mr Gough

New policy application for relief – issuance of scheme or dual network debit cards

The Australian Banking Association (ABA) and Customer Owned Banking Association (COBA) wish to apply to the Australian Securities and investments Commission (ASIC) for the following relief (including with prospective and retrospective application):

- relief, as per Regulatory Guide 51: *Relief applications,* from the hawking provisions and the disclosure obligations in Chapter 7 of the Corporations Act, including s992A, s1012B, and s1012D of the *Corporations Act 2001* (Corporations Act).
- a no action letter application as per Regulatory Guide 108: *No action letters* (RG 108) in relation to the provision of s12DL of the *Australian Securities and investments Commission Act 2001* (ASIC Act).
- relief from the clauses 4.3 and 4.11 of the ePayments Code.

This relief application is proposed to cover current ABA members and COBA members, and any members who may join the ABA or COBA during the duration of relief from ASIC.

The COVID-19 pandemic continues to increase the financial strain on Australian citizens, arising from loss of employment, the closure of businesses and other economy-wide impacts including the likely impact of the illness itself. The ABA and COBA anticipate that there will be a continued and increasing need to take urgent industry-wide action to minimise the broad, varied and rapidly evolving impact of COVID-19 and the Government legislated shutdowns to protect public health, on bank customers.

A key consideration for the ABA and COBA is ensuring the accessibility of banking services for isolated and vulnerable customers in the Australian community. There currently exists cohorts of bank customers who use passbook accounts or customers who otherwise do not have scheme debit cards. These customers are required to enter bank branches to deposit and withdraw cash and purchase their goods and services through the provision of cash.

In light of the COVID-19 implications of business closures, decline in the acceptance of cash by retailers and the stricter rules imposed by the Federal Government with regards to self-isolation, we believe that this may have serious adverse impacts on these customers who will be unable to make necessary payments for their goods and services either in person or through online shopping. To ensure accessibility, we are seeking relief from ASIC to be able to fast track the issuance of scheme or dual network debit cards to these customers.

Background

Corporations Act

Hawking provisions

Section 992A of the Corporations Act currently prohibits the offering of financial products for issue or sale in the course of, or because of, an unsolicited meeting with another person: s992A(1). However, s992A does provide exemptions to the making of unsolicited calls to offer or issue a financial product provided the provider of the product meets certain requirements:

1. The customer is contacted only during the hours prescribed by the regulations and only if the customer is not listed on the "No Contact/No Call" register: s992A(3)(a); and
2. The customer is given the opportunity to register on the “No Contact/No Call” register: s992A(3)(b)(i) - and select the time and frequency of any future contact: s992A(3)(b)(ii); and
3. The customer is given a Product Disclosure Statement before becoming bound to acquire a financial product: s992A(3)(c); and
4. The customer is clearly informed of the importance of using the information in the Product Disclosure Statement when making a decision to acquire a financial product: s992A(3)(d); and
5. The customer is given the name and contact details of the product issuer, an indication of the nature of the information contained in the Product Disclosure Statement relating to the financial product and are given the option of having the information in the Product Disclosure Statement read out to them: s992A(3)(e) and Reg 7.8.22A of the Corporations Regulations 2001.

Disclosure obligations

Chapter 7 of the Corporations Act deals with the disclosure obligations of financial product providers. In particular, s1012B imposes an obligation to provide a Product Disclosure Statement (PDS) to a customer when providing an offer or issuing a financial product. Where the financial product is a basic deposit product or a related non-cash payment facility, then a PDS is not required, rather certain specified information must be provided: s1012D. The financial product provider must provide the PDS or the specified information in lieu of a PDS (basic deposit products and related non-cash payment facilities) at or before the time the provider makes the offer or issues the financial product to the customer: s1012B(3); s1012D(7A); Reg 7.9.07FA of the Corporations Regulations 2001.

ASIC Act

Section 12DL of the ASIC Act currently prohibits the issuance of credit or debit cards by institutions to individuals unless it is under three specific circumstances:

1. In response to a request in writing by the person who is liable to the issuer of the card in respect of the use of the card: s12DL(2)(a);
2. In renewal or replacement of, or in substitution for, a card of the same kind previously sent to the targeted person after a request in writing to the issuer of the previous card: s12DL(2)(b)(i); and
3. In renewal or replacement of, or in substitution for, a card of the same kind previously sent to the targeted person and used for a purpose for which it was intended to be used: s12DL(2)(b)(ii).

These provisions, consistent with provisions in the *Competition and Consumer Act 2010*[1] (CCA), were introduced following a large number of unsolicited credit cards being sent to consumers who did not have an existing credit arrangement with the relevant credit provider.

[1] Section 39 of Schedule 2 of the *Competition and Consumer Act 2010*.

ePayments Code

The ePayments Code (the Code) regulates electronic payments and is administered by ASIC. The Code requires subscribers to give holders of payment facilities a copy of the terms and conditions before, or at the time, a user first performs a transaction as per clause 4.3(a). Furthermore, clause 4.11(d) of the Code requires subscribers to give holders of payment facilities at least 20 days advance written notice when imposing, removing, or changing daily or periodic limits on their facilities or transactions.

Relief scenarios

Hawking

In order to facilitate the issuance of scheme or dual network debit cards to these bank customers to ensure their ability to obtain the daily necessities for living and otherwise transact during these unprecedented times, we are seeking ASIC relief from s992A Corporations Act. This will allow banks the opportunity to proactively call customers, who may be on the "No Contact/No Call" register, to discuss options. These proactive calls are intended to confirm instructions from customers and inform customers about how to protect themselves against risks associated with card usage including security and financial abuse.

Disclosure

In some circumstances this initiative will require banks to link a scheme or dual network debit card to an established account or create a new account entirely and then proceed to issuing the PDS (or for persons relying on a PDS exemption, Terms and Conditions (T&Cs)) with the issuance of the scheme or dual network debit card. This will require relief from the disclosure obligations of s1012B and s1012D of the Corporations Act, Reg 7.9.07FA of the Corporations Regulations and clause 4.3 of the Code.

Written consent to issue a card

The relief will also need to be extended to s12DL ASIC Act to cater for scenarios where it is not practical or possible for banks to obtain written consent from these customers in a manner that is timely or convenient for customers.

Ability to set limits on cash withdrawals

To alleviate fraud risks and risk of financial abuse, banks will need flexibility to impose limits on cash withdrawals promptly and will need relief from the requirement to provide 20 days written notice of a limit change as per clause 4.11 of the Code. Following a limit change, banks will endeavour to contact the customer to discuss the changing of this limit.

The ABA notes that the ABA Banking Code of Practice includes existing parallel provisions, which we consider would adequately protect customers. These are, broadly, for notice to be provided as soon as reasonably possible for a change that is favourable to customers, and a shorter than 30 day period, or no notice period for a change that is unfavourable to customers if it is reasonable to manage a material and immediate risk (Chapter 38, paragraph 155).

Scenarios for relief

The scenarios for relief relate to both basic deposit products and non-cash payment facilities and include:

1. Customers contacting the bank to discuss options and the bank receives verbal consent to issue a scheme or dual network debit card. In issuing the scheme or dual network debit cards, banks will ensure accompanying disclosure information is included (PDS or T&Cs).
2. Banks to proactively contact passbook customers and customers without scheme debit cards and seek verbal consent to either:

   a. issue a scheme or dual network debit card linked to the passbook account; or
   b. issue a scheme or dual network debit card linked to an existing account where a card has not been issued; or
   c. create a new account entirely and issue a scheme or dual network debit card.

   In issuing the scheme or dual network debit cards banks will ensure accompanying disclosure information is included. In some cases, the customer will receive the card activated, while in all other cases they will be required to either activate the card through online means or by phone banking. Banks will ensure this is clearly outlined to the customer in their proactive conversations with them.

3. Banks to link a scheme or dual network debit card to the passbook account and issue that card with accompanying disclosure information. Upon issuing that card, member banks will attempt to contact the customer to discuss. Once the customer receives that card, they will be required to either activate the card through online means or by phone banking.
4. Banks to issue a scheme or dual network debit card linked to an existing account or create a new account and issue either card with accompanying disclosure information. Upon issuance of the card, member banks will attempt to contact the customer to discuss. Once the customer receives that card, they will be required to either activate the card through online means or by phone banking. This scenario is applicable to customers without scheme debit and those customers where a card cannot be linked to their passbook account.
5. Due to the sheer number of customers with passbook accounts and those without scheme debit cards, banks may be unable to contact all these customers. In light of this, this scenario will give member banks the opportunity to either:
   a. issue a scheme or dual network debit card linked to the passbook account; or
   b. issue a scheme or dual network debit card linked to an existing account where a card has not been issued; or
   c. create a new account entirely and issue a scheme or dual network debit card,

   without contacting the customer before, or at the time, or following the issuance of either card. The customer will be provided with accompanying disclosure information with the issued card and they will still be required to either activate the card through online means or by phone banking.

These five scenarios allow banks to cater for the needs of these customers and account for the various business models of our members. While it is the preference of our member banks to contact each individual customer as per scenario two, three, and four this may not be feasible and scenario five caters for this. Overall, the five scenarios provide the necessary flexibility for institutions and ensures the prompt issuance of scheme or dual network debit cards to these in need customers.

Scenario 1

Banks have already begun receiving calls from their customers seeking guidance on how they will transact following self-isolation. In this scenario, where a customer calls with a passbook account or an existing account without a scheme debit card attached to that account, the bank will seek verbal consent and where applicable, will link a scheme or dual network debit card to the passbook account or the existing account, or will create a new account and issue either card. When issuing the scheme or dual network debit card, members will attach accompanying disclosure information and a letter outlining reasons for issuance. In some cases, the customer will receive the card activated, while in all other cases they will be required to either activate the card through online means or by phone banking. Banks will ensure this is clearly outlined to the customer in their conversations with them.

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Scenario 2

In this scenario, members will implement a customer contact strategy, whereby, they will identify those customers who may be in need of a scheme or dual network debit card and will proactively reach out to those customers and discuss options and following consent over the phone, will either:

- issue a scheme or dual network debit card linked to the passbook account; or
- issue a scheme or dual network debit card linked to an existing account where a card has not been issued; or
- create a new account entirely and issue a scheme or dual network debit card.

When issuing either card, members will attach accompanying disclosure information and a letter outlining reasons for issuance. In proactively contacting the customer, banks will ensure they discuss suitable options. In some cases, the customer will receive the card activated, while in all other cases they will be required to either activate the card through online means or by phone banking. Banks will ensure this is clearly outlined to the customer in their proactive conversations with them.

Scenario 3

While uncommon, some of our member banks have the ability to attach a scheme or dual network debit card to passbook accounts held with the bank. In this particular scenario, banks will link either card to a passbook account. They will then issue the card with accompanying disclosure information and a letter outlining reasons for issuance. Banks will then attempt to contact the customer to discuss the issuance of the card. This discussion will also provide the customer with information on usage and include a discussion of the disclosure information. For security reasons the card will not be active and will require the customer to either activate the card through online means or by calling the bank directly.

Scenario 4

This scenario is applicable to customers who have existing accounts that are card compatible but have not requested a scheme or dual network debit card and those customers with passbook and existing accounts that are not card compatible. In this scenario, member banks will create a new account and issue the scheme or dual network debit card, or where applicable, will issue either card linked to an existing account that has scheme or dual network card compatibility. Once the scheme or dual network debit card is issued, member banks will attempt to contact the customer to discuss. The issuance of the card will be accompanied with disclosure information and a letter outlining reasons for issuance. Following receipt of the card, the customer would be required to either activate the card through online means or by phone banking. Transfers of money from the exiting passbook account to the new account would be conducted by phone banking.

Scenario 5

Due to the escalating COVID-19 situation, our member banks are redeploying their resources to focus on key operational needs and responding to the large influx of customer requests. Some banks will not have the resources or the scale to be able to attempt to contact every passbook customer or every customer without a scheme debit card in a timely manner. To ensure the necessary flexibility, this scenario provides the relief for member banks to:

- issue a scheme or dual network debit card linked to the passbook account; or
- issue a scheme or dual network debit card linked to an existing account where a card has not been issued; or
- create a new account entirely and issue a scheme or dual network debit card,

without contacting the customer before, or at the time, or following the issuance of either card. As with scenario one, two, three and four the customer would be provided with accompanying disclosure information and a letter outlining reasons for issuance. Upon receiving this card, the customer would be required to either activate the card through online means or by phone banking. If a customer activates the card through online means, then banks will impose a requirement that the first money transfer from the passbook account to the scheme or dual network account will need to occur by phone.

We believe that these five scenarios provide flexibility to meet the needs of these customers. Providing relief for these scenarios will ensure that these customers are not isolated and are promptly given the necessary accessibility to purchase their goods and services.

Risk mitigation

Card activation

To ensure the necessary protections for these customers, in most cases, where a bank issues a scheme or dual network debit card, the customer will be required to activate the card by online means or by calling the bank before being able to use it for purchases or withdrawals. Banks currently have security protocols designed at identifying customers when they call, and this will limit the risk of the issued card falling into the wrong hands and being used by an unintended recipient prior to activation.

There are some banks who are unable to issue inactive cards. Where this is the case, the bank will ensure in their interaction with the customer (either proactively or through the customer initially contacting the bank) that this is clearly outlined to them. The issuing of active cards will only be applicable to scenario 1 and 2, where the bank has had engagement with the customer prior to the issuing of the scheme or dual network debit card.

Recognising that in some situations banks may not have received the consent of the customer to open a new account and issue a scheme or dual network debit card, banks propose to specify, in their accompanying letter, that when a customer calls to discuss activation and following a discussion of the relevant disclosure information, then an agreement to activate by the customer will constitute acceptance of the contract for the provision of a scheme or dual network debit card. If the customer activates the card through online means, then upon activation, this will be considered acceptance of the contract for the provision of a scheme or dual network debit card. This will be specified in the accompanying letter that is provided to the customer.

Education of the customer

We recognise that in some circumstances these customers may be surprised when they receive scheme or dual network debit cards from their bank. To ensure these customers are well informed, member banks will include accompanying disclosure information and a letter outlining reasons for issuance with the issued card. Banks will also ensure they include information on protection against scams and fraud. In addition to this, where the customer contacts their issuing bank to activate the card, call centre staff will be able to have a broad discussion with the customer about the terms of use of the card. Part of this discussion will revolve around providing the customer with the opportunity to impose a lower daily limit on cash withdrawals. This will ensure these customers have a clear understanding of the cards operations and are aware of available measures to protect against fraud and scams.

Reliance on cash

The issuance of scheme or dual network debit cards to these customers will have the added benefit of providing greater protection to these customers, as it ensures that they are not required to carry large sums of cash, reducing the risk of it being stolen. The risk of transmission of COVID-19 is also lessened through this initiative because cash handling is reduced. In addition, banks have protections in place to protect against fraud and have established protocols in the event of a lost or stolen card providing greater security and protection to card customers. Overall, the issuance of these cards will reduce the customer reliance on cash and thereby help keep vulnerable customers safe.

Australian Banking Association

ABA information campaign

The ABA is developing an information campaign to improve awareness of how customers can protect themselves against frauds and scams and remind these customers about personal safety and the risks of withdrawing large amounts of cash.

ABA Banking Code of Practice

The Banking Code of Practice (Banking Code) commenced operation on 1 March 2020 with 19 ABA member subscribers. The Banking Code has provisions that require subscribers to provide the customer with the terms and conditions of the product either before or at the time the contract is made (Chapter 11, paragraph 24). Banks who create accounts and issue scheme or dual network debit cards before consulting the customer, as per the scenarios above, may be considered to have breached this provision of the Banking Code. In light of this, the ABA will be writing to the Banking Code Compliance Committee (BCCC) notifying them of our relief application to ASIC and outlining the provisions of the Banking Code that will be breached in issuing a scheme or dual network debit card. The ABA will be seeking guidance from the BCCC on the type of breach reporting they require.

In line with Chapter 16 of the Banking Code, ABA banks will provide eligible customers with basic, low or no fee accounts.

Stakeholder consultation

We have been consulting with the Council on the Ageing (COTA) on this matter who have expressed their support for this initiative.

The ABA is also engaging with the Department of Home Affairs, who raised concerns with the isolation of these customers and the need for them to be able to make payments for their goods and services.

A detailed relief application aligned with the requirements of Regulatory Guide 51 is set out in Attachment A.

We would appreciate the opportunity to speak with you about this application. Please contact Amanda Pullinger on 0439 255 195 or at amanda.pullinger@ausbanking.org.au to arrange a suitable time.

Sincerely,

Christine Cupitt Executive Director, Policy Australian Banking Association (ABA)	Michael Lawrence Chief Executive Officer Customer Owned Banking Association (COBA)

Australian Banking Association

Attachment A – New policy relief application

What type of relief are you applying for?

A new policy relief application from the provisions of the Corporations Act. As part of this application, the ABA and COBA are also seeking a no action letter in relation to the ASIC Act and the ePayments Code.

What is the legal basis for your application?

The COVID-19 pandemic continues to increase the financial strain on Australian citizens. There currently exists cohorts of bank customers who use passbook accounts or customers who otherwise do not have scheme debit cards. These customers are required to enter bank branches to deposit and withdraw cash and will purchase their goods and services through the provision of cash. With the stricter rules imposed by the Federal Government with regards to self-isolation, these customers may find themselves isolated and unable to make the necessary payments for their goods and services in person or through online shopping.

In order to fast track the issuance of scheme or dual network debit cards, we are seeking relief (both prospective and retrospective in limited scenarios) from provisions of the Corporations Act, provisions of the ASIC Act and the ePayments Code including:

- s992A(1) of the Corporations Act – hawking provisions;
- s1012B(3) of the Corporations Act – obligation to provide a Product Disclosure Statement;
- s1012D(7A) of the Corporations Act – situations in which a Product Disclosure Statement is not required;
- Reg 7.9.07FA of the Corporations Regulations - Product Disclosure Statement not required for certain specified products;
- s12DL(2)(a) of the ASIC Act – the need for written consent in issuing a scheme debit card;
- Clause 4.3(a) of the ePayments Code – disclosure; and
- Clause 4.11(d) of the ePayments Code –the setting of cash withdrawal limits.

The relief from the above sections will allow banks to:

1. where a customer calls, seek verbal consent and where applicable, link a scheme or dual network debit card to the passbook account or the existing account, or create a new account and then issue either card. In issuing the scheme or dual network debit cards, banks will ensure accompanying disclosure information is included (PDS or T&Cs). In some cases, the customer will receive the card activated, while in all other cases they will be required to either activate the card through online means or by phone banking. Banks will ensure this is clearly outlined to the customer in their conversations with them.
2. proactively contact passbook customers and customers without scheme debit cards and seek verbal consent to either:
    a. issue a scheme or dual network debit card linked to the passbook account; or
    b. issue a scheme or dual network debit card linked to an existing account where a card has not been issued; or
    c. create a new account entirely and issue a scheme or dual network debit card.

   In some cases, the customer will receive the card activated, while in all other cases they will be required to either activate the card through online means or by phone banking. Banks will ensure this is clearly outlined to the customer in their proactive conversations with them.

3. link a scheme or dual network debit card to the passbook account and issue that card with accompanying disclosure information. Upon issuing that card, member banks will attempt to contact the customer to discuss.
4. issue a scheme or dual network debit card linked to an existing account or create a new account and issue either card with accompanying disclosure information. Upon issuance of the card, member banks will attempt to contact the customer to discuss.
5. to either:
    d. issue a scheme or dual network debit card linked to the passbook account; or
    e. issue a scheme or dual network debit card linked to an existing account where a card has not been issued; or
    f. create a new account entirely and issue a scheme or dual network debit card,

    without contacting the customer before, or at the time, or following the issuance of either card. The customer would be provided with accompanying disclosure information with the issued card.

In scenarios one and two some banks will issue the card activated, while most others will require the customer to either activate the card through online means or by phone banking.

In scenarios three, four and five the customer will be required to either activate the card through online means or by phone banking.

While it is the preference of our member banks to proactively contact each individual customer this may not be possible and the five scenarios above provide the necessary flexibility and ensures the prompt issuance of scheme or dual network debit cards to these in need customers.

What is the regulatory issue or problem you want us to consider?

The table below outlines the relevant sections in both the Corporations Act, ASIC Act, and ePayments Code provisions that we are applying for relief from and outlines how the proposed relief will apply.

Reference in the Act	Current application	Proposed relief	Reason for relief
Section 992A(1) of the Corporations Act – hawking provisions	Currently prohibits the offering of financial products for issue or sale in the course of, or because of, an unsolicited meeting with another person.	Provides relief to banks to enable them to make unsolicited calls to their customers who currently have passbook accounts or do not have a scheme debit card to discuss with them the options to issuing them with a scheme or dual network debit card.	Will enable banks to promptly contact these customers who may be on the "No Contact/No Call' register.
Section 1012B(3) of the Corporations Act – obligation to provide a Product Disclosure Statement	Currently imposes an obligation to provide a Product Disclosure Statement to a customer when providing an offer or issuing a financial product. The financial product provider must provide a PDS at or before the time the provider makes the offer or issues the financial product to the customer	Provides relief to banks to enable them to issue a scheme or dual network debit card before the customer has seen the PDS. Where a bank proactively contacts a customer, or when the customer calls to discuss options or activate their card or money transfer, banks will ensure they discuss the PDS with the customer. Where a bank has not previously received verbal consent, then an agreement to activate the card over the phone or where the customer activates the card through online means, will be considered acceptance of the contract between the bank and the customer.	Will enable the prompt issuance of scheme or dual network debit cards to these customers, where banks are unable to discuss the PDS with the customer prior to the issuance of either card.

Section 1012D(7A) of the Corporations Act and Reg 7.9.07FA of the Corporations Regulations – situations in which a Product Disclosure Statement is not required	Currently outlines situations (Basic Deposit Products and related non-cash payments) where a PDS is not required, but certain specified information is required to be provided to the customer before the provider makes the offer or issues the financial product to the customer.	Provides relief to banks to enable them to issue a scheme or dual network debit card before the customer has seen the T&Cs. Where a bank proactively contacts a customer, or when the customer calls to discuss options or to activate their card or to money transfer, banks will ensure they discuss the T&Cs with the customer. Where a bank has not previously received verbal consent, then an agreement to activate the card over the phone or where the customer activates the card through online means, will be considered acceptance of the contract between the bank and the customer.	Will enable the prompt issuance of scheme or dual network debit cards to these customers, where banks are unable to discuss the T&Cs with the customer prior to the issuance of either card.
Section 12DL(2)(a) of the ASIC Act – unsolicited debit and credit cards	Currently prohibits the issuance of credit or debit cards by institutions to individuals unless it is in response to a request in writing by the person who is liable to the issuer of the card in respect of the use of the card.	Provides relief to banks to issue a scheme or dual network debit card without the written consent of the customer.	Ensures the prompt issuance of scheme or dual network debit cards to these in need customers, who would otherwise be unable to purchase their goods and services.
Clause 4.3(a) of the ePayments Code – disclosure	Currently requires subscribers to give holders of payment facilities a copy of the terms and conditions before, or at the time, a user first performs a transaction.	Provides relief to banks to enable them to issue a scheme or dual network debit card before the customer has seen the PDS or T&Cs.	Will enable the prompt issuance of these cards to these customers, where banks are unable to discuss the PDS or T&Cs with the customer prior the issuance of either card.

Clause 4.11 of the ePayments Code – the setting of cash withdrawal limits	Requires subscribers to provide 20 days written notice to the customer, where a limit has been changed on their cash withdrawals.	Provides relief to banks to enable to change the limit of cash withdrawals on a scheme or dual network debit card.	Alleviates fraud risks and risk of financial abuse. Following a limit change, banks will endeavour to contact the customer to discuss the changing of this limit.

What conditions should be imposed on the relief?

With respect to conditions applied to the relief sought, we propose that the relief sought in relation to the Corporations Act, ASIC Act and ePayments Code should only be applicable to those customers who have passbook accounts or do not have a scheme debit card issued by that bank.

What are the legal and cost/benefit arguments for relief?

The relief sought will ensure that banks are able to proactively contact their passbook customers or customers without scheme debit cards to discuss options and issue a scheme or dual network debit card.

It will also allow banks to link scheme or dual network debit cards to existing accounts or create new accounts with scheme or dual network debit card compatibility and issue these cards to these in need customers. In some circumstances, banks will attempt to contact the customers in parallel to this, but due to the sheer size of this customer cohort, may not do so.

This relief will allow for the fast-track issuance of these cards without the prior written consent of the customer. In issuing these cards, banks will ensure they include accompanying disclosure information and a letter outlining reasons for issuance.

To ensure the necessary protections for these customers, in most cases where a bank issues a scheme or dual network debit card, the customer will be required to either activate the card through online means or by calling the bank before being able to use it for purchases or withdrawals. There will be some cases, where the customer has initially contacted the bank (scenario 1) or where the bank has proactively contacted the customer (scenario 2) where some banks will issue an active card. In these circumstances, the bank will ensure this is clearly outlined to the customer in their interaction.

Where a customer calls a bank or a bank calls the customer, bank staff will be able to have a broad discussion with the customer about the terms of usage of the card. Part of this discussion will revolve around providing the customer with the opportunity to impose a daily limit on cash withdrawals, or a lower limit than default. This will ensure these customers have a clear understanding of the cards operations and are aware of measures to protect against fraud and scams.

Overall, we believe that the relief sought provides the flexibility necessary to meet the needs of these customers. Providing relief will help ensure that these customers are not isolated and are promptly given the necessary accessibility to purchase their goods and services.

Have you consulted with ASIC or other relevant regulatory organisation(s)?

The ABA has had initial conversations about this application with employees of ASIC and the Department of Home Affairs.

Are any third parties affected by your application? Have you consulted with them?

We have consulted with the Council on the Ageing (COTA) on this matter who have expressed their support for this initiative.

The ABA has also briefed our Consumer Outcomes Group which includes representatives from Legal Aid QLD, Financial Rights Legal Centre, Consumer Action Law Centre, COTA, Financial Counselling Australia, South East Community Links (SECL), Consumer Credit Legal Service (WA) Inc.

The ABA will also be writing to the BCCC notifying them of our relief application to ASIC and outlining the provisions of the Banking Code that may be breached in issuing a scheme or dual network debit card. The ABA will be seeking guidance from the BCCC on the type of breach reporting they require.

We will also notify the Australian Competition and Consumer Commission (ACCC) of our relief application to ASIC.

Is the application urgent? If so, why?

Our application for relief is urgent. In light of the COVID-19 implications of business closures, decline in the acceptance of cash by retailers and the stricter rules imposed by the Federal Government with regards to self-isolation, we believe that cohorts of customers who currently use passbook accounts or those customers who do not have scheme debit cards may find themselves isolated and unable to access cash or able to make payments for their goods and services.

We would appreciate a response to this application as soon as reasonably practicable to ensure that our member banks can support these in need customers as soon as possible.

Have you enclosed the right fees?

ASIC to invoice the ABA following the receipt of the application.

Have you attached other documents?

Not applicable