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Dear Mr D'Argaville

Westpac Group (**Westpac**) welcomes the opportunity to comment on the draft rules and operational guidelines which will allow AFCA to deal with complaints about conduct by financial firms (**FFs**) dating back to 1 January 2008 which AFCA, its predecessor schemes, courts, or tribunals have not previously dealt with.

Westpac recognises that the strength of the financial system is dependent upon customers having access to redress, even if some time has passed. Westpac therefore fully supports AFCA's review of legacy cases and we will do all we can to assist. You may take this letter as a standing consent to enable AFCA to consider complaints against Westpac for conduct which occurred on or after 1 January 2008 where those complaints would otherwise be outside of AFCA's jurisdiction because of time limits, subject to the current proposed definition of 'Excluded Complaints'. We are also happy to start reviewing any relevant cases prior to 1 July 2019 if they occur.

Westpac is building a dedicated team to manage the AFCA Look Back Review to ensure we have the resources and skills required to assist AFCA with its broader remit. We would welcome the opportunity to have that team meet with you to discuss how to best structure Westpac's processes to align with AFCA's intended approach.

We set out below the way we are approaching complaints more generally and some of the actions we are taking which we believe should assist AFCA to address this issue.

*Westpac's approach to resolving complaints*

At Westpac, a key lesson for us from the findings of the Royal Commission has been that we need to effectively and rapidly respond to customer complaints and identify the issues giving rise to those complaints. In June 2018, we created a new division, Customer and Corporate Relations to ensure complaints were visible and managed at the highest levels of the organisation. Westpac is investing in people, policies, and systems to make sure we resolve complaints in a fair, consistent, and efficient manner.

At Westpac we have long taken a 'customer first' philosophy very seriously – and this is enshrined in our vision. Actions we have taken to reinforce our vision have included:

- Appointment of our Customer Advocate, Adrian Ahern. Joining in late 2016, Adrian and his team have established a new avenue for customers not satisfied with how their complaint has been handled. Reviews by the Advocate are completely independent and decisions are binding on Westpac. Adrian and his team have made progress in resolving long-standing issues and in providing objective feedback on how we can better manage complaints. We have a standing process where the Customer Advocate provides coaching with regular sessions with the broader front line complaints team.
- Appointment of a new Group Executive for Customer and Corporate Relations, Carolyn McCann. Reporting to the CEO and with a direct line to the Board, this role is redefining how we manage, resolve and report customer complaints. The new division has brought together various teams with complaint handling responsibilities and is improving the complaints process for customers and identifying and addressing the root cause of problems.
- Establishment of a Vulnerable Customer Council in 2017 – to better support customers who may be at risk or at the edges, and to help them to avoid hardship and financial harm. Council members include representatives from financial counselling organisations and community legal centres. The Council is supported by specialist teams with access to expertise in areas such as health and counselling to help manage customers often in complex circumstances. We have recently developed a customer vulnerability action plan and are actively looking at how we can respond to other socially important issues – like St. George becoming Australia’s first dementia friendly bank.

*Recent changes to the way we are handling complaints*

At Westpac we have focused on the identification and resolution of long-standing customer complaint matters, with our team working to make things right for customers. As part of this effort our senior executives, including the CEO, have stepped up the amount of time they spend reviewing specific customer complaints and meeting personally with some of the affected customers to ensure they fully understand the issues and the impact of our actions and what we need to do to improve.

In the short term, the media attention surrounding the Royal Commission, as well as the launch of AFCA, will likely see complaint volumes remain elevated for some time. However, we are confident that we now have the right level of focus across the company on resolving customer issues and the root causes of complaints.

We have established a Customer Outcome Committee which meets every week to work through any long dated or contentious complaint matters. As a result, we have reduced time to close complaints by approximately 30 per cent in the past six months. In addition, since July of last year we have resolved more than 500 long dated complaints.

*The proposed changes to the AFCA Rules and Operational Guidelines*

Westpac supports the approach AFCA has taken to the changes to the Rules and Operational Guidelines. Notably, the changes are appropriately drafted to avoid conflicts with regard to the separation of powers and ensure that decisions made by previous schemes are upheld. This is important for customers as much as it is important for banks – it would be regrettable if customers who had been previously ruled against were given false hope that a new scheme might make a different decision. Westpac also supports the ABA’s submission regarding detail in the changes to the Rules and Operational guidelines.

We note the proposal that AFCA may modify the processes they apply including, "varying the referral back timeframe when we first receive a legacy complaint and refer it to the Financial Firm, conducting a greater number of conciliation conferences and referring legacy complaints more directly to decision, if they cannot be quickly resolved by agreement". Westpac supports this and we take it from this statement that AFCA will, in accordance with its standard practise, encourage FFs to resolve the matter directly with the customer in the first instance.

We note that when considering a legacy complaint, AFCA must apply "the Rules as at 30 June 2019". This applies regardless of the governing rules or Terms of Reference of any predecessor scheme that were applicable at the date the loss or right to bring an action arose, or the rules or Terms of Reference that applied if a legacy complaint was previously lodged with a predecessor scheme. This is different to other complaints, when AFCA must apply the rules that were in existence at the date the complaint was first submitted". In this regard it is critical that AFCA will apply a legal 'lens' equivalent to that applied at the time (rather than applying a 2019 lens). To do otherwise could lead to inconsistent and therefore unfair outcomes (e.g. a different outcome for legacy complaint vs a previous FOS complaint). Where the law that applied at the time is unclear, inconsistent with a community expectation or non-existent, we agree it may be appropriate to apply a 2019 'lens' to reach the right outcome for the customer.

We note AFCA has advised that further guidance will be provided prior to 1 July 2019 about how legacy complaints will be handled and AFCA's approach to issues that these complaints may raise. We also note that AFCA has said that members will be provided with information about relevant complaint fees and charges that will be applicable for legacy complaints. In relation to funding structures, Westpac refers AFCA to the principles we laid out in our earlier submission on AFCA's interim funding structure and we welcome the opportunity to discuss the specifics at the appropriate time. We would also be keen to discuss remediation programs for past complaints which may overlap with the 10 year review and how AFCA proposes to deal with systemic issues in this regard.

To close, we reiterate that Westpac has a keen interest in the success of AFCA. The strength of the financial system depends on customers being treated efficiently and fairly and on the complaints scheme delivering swift and cost-effective outcomes that support the strength of the system whilst providing access to 'just' decisions. Westpac stands ready to assist AFCA to deliver this to ensure that wherever we have not achieved this in the past, that we put things right for our customers.

Westpac would welcome the opportunity to discuss the changes to the Rules and Operational Guidelines with AFCA at your earliest convenience.

Should you require any further information, do not hesitate to contact [REDACTED] or by email at [REDACTED].

Yours sincerely,



**Michael Chouefate**

Group Head, Government and Industry Affairs