

## Notification of Proposed Collective Bargaining

Date 15 January 2024

**Piper Alderman  
Lawyers**

Level 26, Riparian Plaza  
71 Eagle Street  
Brisbane QLD 4000

t +61 7 3220 7777  
f +61 7 3220 7700  
[www.piperalderman.com.au](http://www.piperalderman.com.au)

**Brisbane Sydney Melbourne Perth Adelaide**

## Parties to the proposed conduct

### 1. Provide details of the notifying party, including:

#### 1.1 name, address (registered office), telephone number and ACN

Name and ACN	Customer Owned Banking Association Limited ACN 137 780 897 ( <b>COBA</b> )
Address (registered office)	Level 4 Suite 403 151 Castlereagh Street Sydney NSW 2000
Telephone number	Telephone number: +61 2 8035 8400

#### 1.2 contact person's name, position, telephone number and email address

Contact	Andrew Rankin Partner Piper Alderman Telephone number: +61 7 3220 7741 Email address: <a href="mailto:arankin@piperalderman.com.au">arankin@piperalderman.com.au</a>
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#### 1.3 a description of business activities

COBA is the industry association for Australia's customer-owned banking institutions, which include mutual banks, credit unions and building societies. COBA currently comprises 56 members.

COBA champions the customer owned banking model and advocates for a more competitive retail banking sector that benefits all Australians. COBA also provides members with expert advisory and support services.

A subset of COBA members are members of the Small Australian Mutuals (**SAM**) Network (**SAM Members**). The SAM Network is a collective of small customer-owned banking organisations collaborating on ideas, services, solutions and opportunities to provide better banking options for their customers.

The majority of SAM Members hold <\$1BN each in assets under management. The SAM network represents circa 6.9 percent of total COBA member assets and circa 0.2 percent of banking sector assets under management in Australia.

In particular, the purposes and objectives of the SAM Network are to strengthen the voice of smaller customer owned banks, and provide a platform for dialogue, innovative ideas, and opportunities relevant to SAM Members through:

- establishing a national framework within which smaller customer owned banks can share information, improve collaboration, and identify shared opportunities;

- strengthening the capacity of smaller customer owned banks to advocate for their interests with suppliers (such as through COBA as the industry body);
- providing a forum for exploring lawful collective bargaining opportunities for goods and services from third party providers; and
- encouraging mentoring, professional development and innovation.

A specialist procurement company, Shared Services Partners Pty Ltd ACN 607 871 661 (**SSP**), was established in 2015 by a number of credit unions and is utilised by COBA members to provide various procurement services.

#### 1.4 email address for service of documents in Australia

Email address	<a href="mailto:arankin@piperalderman.com.au">arankin@piperalderman.com.au</a>
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## Details of the notified conduct

### 2. Indicate whether the notified conduct is for:

#### 2.1 exclusive dealing (s. 47 of the Competition and Consumer Act 2010 (Cth) (the Act))

No.

#### 2.2 resale price maintenance (s. 48)

No.

#### 2.3 collective bargaining (s. 93AB). If the notified conduct is for collective bargaining, whether the notified conduct includes a collective boycott

The notified conduct is for collective bargaining pursuant to section 93AB of the *Competition and Consumer Act 2010* (Cth). The notified conduct does not include a collective boycott.

### 3. Provide details of the notified conduct including:

#### 3.1 a description of the notified conduct

##### Background

A number of SAM Members used a home loan serviceability calculator provided by Helia Group Limited ACN 154 890 730 (**Helia**). The loan serviceability calculator is used solely for determining home loan serviceability and is for internal use by SAM Members only. In particular, the loan serviceability calculator contains functionality to determine the greater of the household expenditure measure (**HEM**) and a potential borrower's estimated living expenses (**Loan Serviceability Calculator**). Data fields in the Loan Serviceability Calculator include total annual gross income, number of applicants, number of dependents, loan amount, loan term and total monthly commitment.

Helia made a business decision to terminate its Loan Serviceability Calculator from 31 December 2023, leaving impacted SAM Members with a need to replace the Loan Serviceability Calculator.

On behalf of SAM Members, COBA has engaged SSP to implement a replacement Loan Serviceability Calculator for SAM Members. Widget Works Pty Ltd ACN 163 629 034 (**Widget Works**) has been identified as a suitable provider of a replacement Loan Serviceability Calculator tool following a request for proposal process via COBA. Office Experts were also contacted by COBA, as part of this process (on Helia's recommendation), however Widget Works were confirmed as the preferred supplier of the tool.

The Widget Works Loan Serviceability Calculator will be comparable to the current Helia Loan Serviceability Calculator.

The procurement by SSP will only be for SAM Members, however, only some of the SAM Members have committed to the procurement as at the date of this Notification.

A full list of current SAM Members for the purposes of this Notification is set out in Schedule 1. The Mutual Bank is also seeking access to, and is participating in procurement of the replacement Loan Serviceability Calculator with SAM Members. The Mutual Bank is a small customer owned bank but not a current SAM Member. A reference to "SAM Members" in this notification includes a reference to The Mutual Bank as well as future SAM Members.

#### Notified Conduct

SSP will (on behalf of current and future SAM Members), negotiate directly with Widget Works, or such other third-party providers of a replacement Loan Serviceability Calculator (**Target**), in relation to:

- the requirements and functionality for the base model replacement Loan Serviceability Calculator as per the requirements of, and advised by, current and future SAM Members (SSP will also negotiate additional specific customisations and requirements on behalf of individual SAM Members if required); and
- the terms of the contractual arrangements applying to each current and future SAM Member that agrees to enter into an arrangement with the Target for the replacement Loan Serviceability Calculator (depending on the requirements of individual SAM Members, some SAM Members may have additional or different terms). It is intended that, given the nature of the procurement of the Loan Serviceability Calculator, that contractual arrangements will be largely based on the Target's standard terms with differences largely limited to the functional requirements of the Loan Serviceability Calculator, any specific implementation requirements, and pricing,

#### **(Notified Conduct).**

As the procurement entity, SSP will enter into a specific contractual arrangement with Widget Works, or the Target, relating to the procurement of the Loan Serviceability Calculator. Each individual SAM Member seeking to procure the replacement Loan Serviceability Calculator will access the Loan Serviceability Calculator through SSP (with Widget Works hosting the Loan Serviceability Calculator), and will enter into specific standard form contracts governing their access to and use of the replacement Loan Serviceability Calculator.

A SAM Member may voluntarily participate in the Notified Conduct and there is no requirement or obligations that a SAM Member must either participate in the Notified Conduct or otherwise procure the replacement Loan Serviceability Calculator. Each SAM Member will also be able to negotiate or otherwise deal with the Target on an individual basis if it chooses to do so.

The Notified Conduct only applies to current and future SAM Members, and not any other COBA members or other third parties.

### **3.2 any relevant documents detailing the terms of the notified conduct**

Please refer to a copy of a preliminary proposal document for the Loan Serviceability Calculator issued by Widget Works attached to the Confidential Schedule 2 (**Widget Works Proposal Document**) which sets out the proposed functionality and requirements for the Loan Serviceability Calculator.

### **3.3 the rationale for the notified conduct**

Given the ceasing of the Helia Loan Serviceability Calculator from 31 December 2023, a number of SAM Members were required at relatively short notice to procure a replacement Loan Serviceability Calculator at the same time.

Due to the similar timing as well as similar functionality requirements for the replacement Loan Serviceability Calculator by SAM Members, SAM Members and Widget Works both see substantial benefit in conducting the scoping of the Loan Serviceability Calculator, as well as negotiation of standard terms on which SAM Members will procure the replacement Loan Serviceability Calculator, on a collective basis.

In particular:

- the Loan Serviceability Calculator is not an “off the shelf” product but will contain similar functionality requirements for various SAM Members. Accordingly, the separate procurement of such product would result in substantial inefficiencies, both in terms of cost and time, not only for SAM Members, but also Widget Works; and
- given the Helia Loan Serviceability Calculator ceased to be operational from 31 December 2023 there is an urgent need for a replacement Loan Serviceability Calculator to be implemented as soon as possible and a joint procurement will ensure that this will occur as quickly as possible.

The joint procurement of the replacement Loan Serviceability Calculator from the Target also results in substantial benefits and efficiencies for the Target given it does not need to scope out the replacement Loan Serviceability Calculator for each SAM Member individually.

Even if the Notified Conduct was not engaged in:

- individual SAM Members would likely still seek to engage SSP or other third parties directly to negotiate a replacement Loan Serviceability Calculator;
- individual SAM Members would likely procure the replacement Loan Serviceability Calculator on largely the same, if not the same, basis and terms (other than price); and
- it is not expected that there would likely be major differences in requirements for the replacement Loan Serviceability Calculator, given the functionality of the Loan Serviceability Calculator and the similar requirement and uses of the Loan Serviceability Calculator by SAM Members.

However, in those circumstances neither the SAM Members nor the Target would then benefit from the efficiencies and benefits outlined above. In addition, the SAM Members would be exposed without an alternative Loan Serviceability Calculator for a substantial period of time.

### **3.4 any time period relevant to the notified conduct**

Notification to the ACCC is made to permit immediate collective negotiations on procurement requirements and contractual arrangements of the Loan Serviceability Calculator.

The maximum notification period of ten years is sought given:

- there is likely to be an ongoing need for SSP, on behalf of SAM Members, to re-engage with Widget Works (or another Target) from time to time, not only to renegotiate terms, but to also address technical changes, upgrades and maintenance of the Loan Serviceability Calculator. This is particularly the case given the “static” nature of the Loan Serviceability Calculator and as arrangements between customer owned banks and information technology service providers are usually for the medium to long term; and
- there may be subsequent need for SAM Members to negotiate with another Target for the Loan Serviceability Calculator in the event the procurement with Widget Works is unsuccessful and the maximum period is sought to ensure that subsequent procurement for the Loan Serviceability Calculator may also proceed under this Notification.

#### **4. Provide documents submitted to the notifying party’s board or prepared by or for the notifying party’s senior management for purposes of assessing or making a decision in relation to the notified conduct and any minutes or record of the decision made.**

Not applicable.

#### **5. Provide the names and/or a description of the persons or classes of persons who may be directly impacted by the notified conduct (including targets in collective bargaining or boycott conduct) and detail how or why they might be impacted.**

Beyond the Target and the SAM Members that seek to participate in the Notified Conduct, COBA does not expect that other persons will be directly impacted by the Notified Conduct.

## **Market information and concentration**

#### **6. Describe the products and/or services, and the geographic areas, supplied by the notifying parties. Identify all products and services in which two or more parties to the notified conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).**

As set out in section 1.3, COBA is the industry association for Australia’s customer-owned banking institutions, which include mutual banks, credit unions and building societies. It mainly provides advisory and support services to members and otherwise seeks to advocate on behalf of its members.

SAM Members are each small customer-owned banking organisations that provide a range of banking products and services to customers around Australia.

SAM Members do not compete with the Target in relation to the Loan Serviceability Calculator to be procured. In addition, while they provide similar banking products and services to customers, they serve distinct regions and communities as detailed in Schedule 1 with minimal overlap.

**7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.**

The main industry relevant to the Notified Conduct relates to financial calculators for the finance and banking sector. These calculators are used by a range of financial and banking institutions for a wide variety of purposes and with various levels of complexity and functionality.

Given the nature of these calculators:

- some may be developed in house to cater for specific needs and requirements;
- some are procured as off the shelf products from various third-party providers, with limited customisations; and
- some are procured as customised calculators from third party providers based on the particular financial or banking institution's specific needs and requirements.

A variety of procurement processes apply in respect of the financial calculators, including depending on the purpose and requirements for those financial calculators. In particular:

- for more complex requirements, there may be an extensive scoping and build phase(s) for the financial calculators; and
- for off the shelf products, these are usually simply purchased from a particular provider and then deployed by the provider for the finance or banking customer.

As noted above, the Loan Serviceability Calculator being procured is solely for internal use only by SAM Members (including The Mutual Bank) and is not being resold or otherwise offered to customers, accordingly, there is no secondary or other market for such Loan Serviceability Calculator relevant to SAM Members.

**8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.**

COBA estimates that SAM Members' total assets comprise around 0.2% of the total market for the banking sector and 6.9% of all COBA members.

As the Loan Serviceability Calculators are used for internal processes and purposes only and not separately supplied to customers or third parties, there are no relevant market shares for such financial calculators as between SAM Members. The calculators are used specifically to assist SAM Members determine the re-payment capacity (i.e. risk) associated with customer home loan applications. Cost of living data provided by SAM customers from other banking sources is compared to HEM data sourced via Perpetual Trustees to help inform this decision.

**9. In assessing a notification, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any**

**ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:**

#### **9.1 existing competitors**

SAM Members are subject to and face vigorous competition from banking institutions around Australia. In particular, the Notified Conduct does not directly impact on the nature of the products and services SAM Members and other banking institutions provide to their customers.

In terms of Widget Works, similar financial calculators to the Loan Serviceability Calculator are used by the majority (if not all) financial service providers. Competitors to Widget Works would include other speciality IT software service providers such as Office Experts.

In addition, given the nature and function of financial calculators IT software service providers generally, would have the ability to develop financial calculators for financial and banking institutions and as noted above in section 7, some financial and banking institutions are capable of and do develop their financial calculators in house.

#### **9.2 likely entry by new competitors**

In terms of Widget Works, given financial calculators are a software tool with relatively standard functionality, it is relatively simple for existing IT software service providers to develop similar tools for financial and banking institutions or for certain financial and banking institutions to develop those tools in house.

#### **9.3 any countervailing power of customers and/or suppliers**

Unlike larger financial and banking institutions, SAM Members have limited capacity or capabilities to develop an in-house Loan Serviceability Calculator, or if they are able to, it would be far more costly and time consuming than procuring such Loan Serviceability Calculator from a third party provider, such as Widget Works. Consequently, SAM Members have limited countervailing power.

#### **9.4 any other relevant factors**

Not applicable.

## **Public benefit**

### **10. Describe the benefits to the public that are likely to result from the notified conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.**

It is anticipated that the Notified Conduct will result in at the least the following public benefits.

#### Benefits for customers of SAM Members

Loan Serviceability Calculators are used frequently by SAM Members as part of assessing customers' home loan applications. The procurement of the replacement Loan Serviceability Calculator will allow:

- SAM Members to continue to be able to gauge the quality of customer home loan applications;



- ensure customers have capacity to service their home loans; and
- ensure effective credit policy management.

The Notified Conduct will ensure a more streamlined procurement process in addition to a higher level of scrutiny in the procurement of the Loan Serviceability Calculator product (given the greater number of lending experts of the SAM Members involved in user acceptance testing). This will allow SAM Members to be able to procure a higher quality replacement Loan Serviceability Calculator to allow it to appropriately assess the quality of customers' home loan applications, compared to if the replacement Loan Serviceability Calculator was procured by SAM Members individually.

#### Other benefits

In addition to benefits for customers, the Notified Conduct would also likely:

- result in transaction cost savings for each SAM Member (as well as the Target) as part of contractual negotiations, rather than needing to individually conduct contractual negotiations with the Target; and
- result in efficiencies in the procurement process (for both each SAM Member and the Target), with a single entity (being SSP) liaising with the Target on behalf of the SAM Members, rather than SAM Members individually liaising with the Target.

## **Public detriment (including likely competitive effects)**

11. **Describe any detriments to the public that are likely to result from the notified conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC's assessment of the detriments.**

COBA considers it unlikely that the Notified Conduct will result in any meaningful public detriments on the basis that:

- participation in the Notified Conduct by SAM Members is voluntary. SAM Members will be able to decide whether to participate in the procurement of the replacement Loan Serviceability Calculator from the Target and subsequent entering into of any negotiated agreement;
- the notification is only on behalf of SAM Members and not other COBA members (with the exclusion of The Mutual Bank, who is a COBA member);
- each SAM Member can still seek to negotiate specific terms as well as any specific customisations with the Target; and
- each SAM Member will continue to compete in respect of their banking products and services and the Notified Conduct is unlikely to either affect or reduce that competition.

## Contact details of relevant market participants

- 12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties, such as actual or potential competitors, customers and suppliers, trade or industry associations and regulators.**

The contact details of Widget Works are as follows:

Alistair Bruce  
 Director  
 Widget Works Pty Ltd  
 10 Eagle Street Brisbane City QLD 4000

Phone: 0422 465 036  
 Email: alistair@widgetworks.com.au

COBA does not consider that there are other parties that are likely to be interested parties given they are not affected by the Notified Conduct.

## Any other information

- 13. Provide any other information you consider relevant to the ACCC's assessment of the notified conduct.**

COBA has no further submissions to make in respect of this notification.

## Additional information for collective bargaining (with or without a collective boycott) conduct only

- 14. Confirm that the notifying party is not a trade union, an officer of a trade union or acting at the direction of a trade union.**

COBA confirms that it is not a trade union, an officer of a trade union or acting at the direction of a trade union.

- 15. Provide details (name, phone number, email address) of the persons who are current members of the group (contracting parties) on whose behalf the notification is lodged. If relevant, identify the classes of persons who may become contracting parties in the future and on whose behalf the notification is lodged.**

Notification is lodged on behalf of SAM Member appearing in Schedule 1. While only some SAM Members have indicated their participation in the Notified Conduct, this notification is lodged on behalf of all SAM Members and any other potential or future SAM Member that seeks to participate in the Notified Conduct.

- 16. Confirm each contracting party:**

- 16.1 reasonably expects to make one or more contracts with the targets for the supply or acquisition of the relevant goods or services and**

COBA confirms that one or more agreements will be entered into with the Target, through SSP, in respect of the procurement of the replacement Loan Serviceability Calculator.

**16.2 the value of each contract will not exceed A\$3 million (or any other amount prescribed by regulation) in any 12-month period.**

COBA confirms that the value of each agreement with the Target will not exceed \$3 million in any 12-month period.

**16.3 Provide details of the basis for that expectation.**

As outlined in the Confidential Widget Works Proposal Document which includes details of indicative set up and annual licence fees, the set up and annual licence fee is substantially below \$3 million.

**17. If the contracting parties propose to engage in a collective boycott with respect to the targets, provide details of:**

**17.1 the event/s that would trigger a collective boycott**

**17.2 the process that would be followed**

**17.3 any proposed notice period to be given to the target/s prior to commencing a collective boycott and**

**17.4 any proposed dispute resolution procedure between the contracting parties and the targets.**

Not applicable, the Notified Conduct is for collective bargaining without a collective boycott.

## Declaration by notifying party

Authorised persons of the notifying party must complete the following declaration.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



.....  
Signature of authorised person

Chief Executive Officer, Customer Owned Banking Association Limited

.....  
Office held

Michael Lawrence

.....  
(Print) Name of authorised person

This ...15th..... day of .....January..... 2024

*Note: If the Notifying Party is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Notifying Party, this fact must be stated.*

## Schedule 1 – List of SAM Members

Name	Contact Person	Telephone	Email	Primary customer base
Cairns Bank	Liam Tiernan	07 4031 4460	liam@cairnsbank.com.au	Cairns and surrounding postcodes
Family First Bank	Adam Marshall	02 6354 1618	amarshall@familyfirst.com.au	Central western NSW
Fire Service Credit Union	Tricia Ireland	08 8227 2422	tireland@fscu.com.au	SA Fire Service
Geelong Bank	Dino Choong	0427 262 250	DChoong@geelongbank.com.au	Geelong and surrounding postcodes
Goulburn Murray Credit Union	Steven McAuley	0457 441 708	SMcAuley@gmcu.com.au	Shepparton and surrounding postcodes
Horizon Bank	Marie Brewer	02 4224 7700	MarieBrewer@horizonbank.com.au	Wollongong and surrounding postcodes
The Mutual Bank*	Kieran Quigley	02 4934 0136	KieranQuigley@themutual.com.au	Maitland and surrounding postcodes
The Mac	David Cadden	02 4640 9922	Davec@themaccu.com.au	Camden and surrounding postcodes
Transport Mutual Credit Union	John Kavaleros	02 9763 3190	johnk@transportmutual.com.au	Roads & Maritime Services
Woolworths Team Bank	Mari-Jaine Saylor	1300 665 553 (option 2)	mjsaylor@woolworthsteambank.com.au	Woolworths Employees

\* The Mutual Bank is a small customer owned bank and is not a current SAM Member (but may re-join in the future).

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## Schedule 2 – Widget Works Proposal Document

The Widget Works Loan Serviceability Calculator Proposal contains details of the Loan Serviceability Calculator including set up and licensing fees and is omitted from this public version on the basis that the information contained within the Widget Works Loan Serviceability Calculator Proposal is commercially sensitive and confidential to COBA, SSP, and SAM Members as it concerns COBA, SSP and SAM Members' business, commercial or financial affairs. Disclosure would cause significant damage and harm to COBA, SSP and SAM Members. Accordingly COBA respectfully requests that such information be maintained as confidential and excluded from the notifications register in accordance with section 95(2) of the Act.