

29 August 2024

Veronica Richards  
Director  
Public Groups  
Australian Taxation Office

Via email: [Veronica.Richards@ato.gov.au](mailto:Veronica.Richards@ato.gov.au)

Dear Ms Richards

### **Consultation paper – Additional Tier 1 (AT1) capital note issuances**

COBA welcomes the opportunity to comment on the Australian Tax Office's (ATO) consultation on potential public advice and guidance in respect of future issues of AT1 capital notes.

COBA represents Australia's customer owned banks (mutual banks, credit unions and building societies). Collectively, our sector has over \$178 billion in assets and is the fifth largest holder of household deposits. Customer owned banking institutions account for around two-thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs).

#### **Key points**

An appropriate Taxation Ruling on future issues of AT1 capital notes is expected to support mutual ADI access to the AT1 market by reducing some cost and complexity of issuance.

A standard ruling should include the necessary detail to ensure that a mutual ADI is able to rely on such a ruling, noting that mutual ADIs are structured differently to listed ADIs.

More detail on whether the draft Taxation Ruling is suitable for mutual ADIs should be sought from direct market participants and professional services firms.

#### **Benefit to Mutual ADIs**

Although the major banks are the primary issuers of AT1 instruments in Australia, mutual ADIs are increasingly accessing this market for their capital needs. As the mutual ADI sector grows and given the sector's constraints in increasing Tier 1 capital outside AT1 issuance, any changes which can be made to support the sector's access to the AT1 market in a cost-effective manner are welcomed.

COBA generally supports the provision of a Taxation Ruling for AT1 capital note issues. A standard ruling is expected to contribute to a decrease in the cost and complexity for mutual ADIs raising capital through an AT1 issuance, as mutual ADIs currently need to apply for an individual ruling when establishing an AT1 issuance.

## Features of the Described Scheme

COBA believes that a standard ruling should include the necessary detail to ensure that a mutual ADI is able to rely on such a ruling, noting that mutual ADIs are structured differently to listed ADIs and therefore AT1 notes also operate differently. Should a ruling be structured appropriately, this would be expected to eliminate or substantially reduce the propensity for mutual ADIs to apply for class or private rulings on specific AT1 capital note issuances.

The standard ruling should ensure consistency with the Australian Prudential Regulation Authority's (APRA) prudential requirements in the issuance and maintenance of AT1 capital notes. Any material changes to the prudential requirements around AT1 should result in appropriate changes being made to the ATO's standard ruling in a timely manner. Failure to do so could render the standard ruling inappropriate for AT1 issuers and therefore will result in delays and additional costs for issuers to enter the market.

Given the timeframes required to proceed with an AT1 issuance, a commitment to future-proof the standard ruling will ensure that any ruling can be relied up on for ADIs considering an issuance in the near and distant future.

More detail on the appropriateness of the standard ruling to mutual ADIs as it is currently drafted should be sought from direct market participants and professional services firms which provide advice to issuers of and investors in AT1 instruments issued by mutual ADIs.

We look forward to engaging further with the ATO on this issue as needed and thank you for taking our views into account. Please do not hesitate to contact Alexander Woloszyn, Policy Manager ([awoloszyn@coba.asn.au](mailto:awoloszyn@coba.asn.au)) if you have any questions.

Yours sincerely



**MICHAEL LAWRENCE**  
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