Australian Finance Industry Association

16 June 2026

Office of the Australian Information Commissioner
privacyreformtranche1@oaic.gov.au

Dear Director,

AUTOMATED DECISION-MAKING TRANSPARENCY OBLIGATION CONSULTATION

The Australian Finance Industry Association (AFIA)[1] is the only peak body representing the entire finance industry in Australia. We appreciate the opportunity to respond to the Consultation on Guidance for Transparency in Automated Decision Making.

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

[1] Australian Finance Industry Association (afia.asn.au)

INTRODUCTORY COMMENTS

AFIA welcomes the opportunity to contribute to the development of the OAIC's guidance on the automated decision-making (ADM) transparency obligation in Australian Privacy Principle (APP) 1.

We support the objectives behind the obligation. Transparency about the use of ADM, where it is calibrated sensibly, can strengthen consumer trust and help people understand how decisions affecting them are made. Our members are committed to the responsible adoption of these technologies.

Our submission is directed at keeping the guidance proportionate to the obligation as enacted. Three features of the obligation frame our comments throughout.

First, the obligation is a transparency measure discharged through a privacy policy. It requires disclosure of the kinds of personal information used and the kinds of decisions made (APP 1.8). Parliament chose this transparency model deliberately. Unlike Article 22 of the EU and UK GDPR, or Principle 10 of the Privacy and Responsible Information Sharing Act 2024 (WA), the obligation confers no right to notification, to request information, to human intervention, or to contest a decision. That was a considered choice, made with those other models in view. Guidance should give effect to the obligation Parliament enacted, and should not reintroduce, through interpretation, requirements that Parliament chose not to impose.

Second, the disclosure is categorical and high-level. APP 1.8 speaks in terms of kinds, the Explanatory Memorandum (EM) confirms that commercial-in-confidence information is excluded from APP 1.7, and the Digital Transformation Agency's own standard, cited in the Issues Paper, treats transparency statements as only a high-level overview. These sources point the same way. Our ask is that the guidance hold to that level: disclosure of the kinds of information and decisions, not a description of individual systems or decision criteria.

Third, AFIA members already operate under detailed sector-specific regulation covering decision-making, vulnerability and consumer protection. This includes the National Consumer Credit Protection Act 2009 (Cth), ASIC's expectations on consumers experiencing vulnerability, the relevant industry codes, the General Insurance Code of Practice, and the AFCA scheme. This submission is made from the perspective of regulated financial services, which differs from the government-agency settings used in the Issues Paper's examples. The new obligation under APP 1 is a transparency measure. It was not intended to set new policy on vulnerability or consumer protection in financial services, which is already governed by those regimes and enforced by other regulators. We encourage the OAIC to align its guidance with them, so the obligation does not duplicate protections that already apply or create conflicting requirements.

Our responses follow, using the question numbering in the Issues Paper.

Response to Question 1: factors relevant to "substantially and directly related"

We note at the outset a drafting ambiguity. The only rating scale defined in the Issues Paper is the strongly-disagree-to-strongly-agree scale, which does not fit the ranking of factors. We have read the request as asking us to rate each factor's importance to the assessment (from 1 = least importance to 5 = most important), and we respond on that basis. The OAIC may wish to clarify the intended scale in any later consultation.

The test has two limbs, set out in the Explanatory Memorandum. A thing is substantially related where it is a key factor in facilitating the human's decision, and directly related where it has a direct connection with the decision. The listed factors are best assessed against these two limbs, and one of them really belongs to a different question.

- Degree of reliance on the output (importance: 5). This is the central indicator of the substantial limb. An output that operates as a key factor in the human's decision is captured; a calculation that merely produces an input, such as deriving age from a date of birth, is not.
- Integration of the program into the decision workflow (importance: 4). This is the clearest indicator of the direct limb, showing a structural rather than incidental connection to the decision.
- Whether the human's decision is genuinely independent of the output (importance: 4). The question is not how often the human agrees with the output, since a careful human will often, and properly, reach the same answer as a sound model. What matters is whether anything constrains the human's ability to decide otherwise, such as a policy that treats the output as the default and asks the decision-maker to justify any departure from it, or incentives that discourage manual intervention. Agreement in most cases does not, by itself, show the absence of independent judgment.
- Nature of the output, advisory or determinative (importance: 3). This mainly tells you which disclosure limb applies. A determinative output engages APP 1.8(b), which concerns decisions made solely by ADM, whereas the present limb concerns ADM that assists a human decision.
- Transparency and explainability of the output (importance: 2). This is not, in our view, probative of the threshold. Whether an output can be explained does not change whether it is a key factor in, or directly connected to, a decision, and an opaque output may be highly determinative. Explainability goes to the quality of disclosure, which we address at Question 12. We would caution against any approach in which opacity became an inadvertent exemption.

We would add two further factors. The first is whether the output is the sole or dominant input to the decision, which is a clear proxy for the substantial limb. The second is the stage at which the program operates, since a program used at a screening stage can be highly substantial even where it is described as advisory.

Two further questions arise where a program is used at several points in a decision process, and the guidance should deal with both.

The first is whether the substantial limb is assessed step by step or across the process as a whole. In our view it should turn on what the automated component contributes to the particular decision. A process may contain a series of automated steps, such as retrieving, formatting, validating or routing data, that are individually and together incidental to the decision, without the decision being substantially facilitated by ADM. The presence of automation somewhere in a workflow should not, by itself, bring the decision into scope.

The second is what "directly" means where the human decision-maker sits several steps away from an automated output. We read "directly" as requiring a genuine and proximate connection to the decision, so that an output whose influence is remote, or is broken by an intervening exercise of independent human judgment, is not directly related to it. We accept one qualification. An automated step earlier in the process may still be directly related where it determines the options available to the decision-maker, rather than merely informing the decision, and the guidance should treat those two situations differently.

Response to Questions 2 and 3: fictional example of generative AI with human oversight

Yes, subject to the distinction we draw below between the two functions described which we separate below.

On the recommendation function, the use is in our view substantially and directly related to the decision. The Issues Paper records that NACIA staff decide eligibility based on the recommendation the chatbot provides. That makes the recommendation a key factor facilitating the decision, which satisfies the substantial limb, and it is plainly connected to the eligibility outcome. The presence of human oversight does not change this. The assisting limb in APP 1.7(a) and 1.8(c) is aimed precisely at ADM that informs a human decision, and a reading under which any human sign-off took a process out of scope would leave that limb with no work to do.

The summarisation function is less clear-cut and depends on the role the summary plays. If staff rely on the summary instead of the underlying material, it shapes what the decision-maker sees and is likely to be substantial. If staff read the source material and treat the summary as a convenience, it is less likely to meet the substantial limb. Generative summarisation also carries risks of omission and error that simple computation does not, and the Issues Paper confirms that generative AI tools fall within "computer program."

For completeness, the significance limb in APP 1.7(b) would be met easily here, since the decision concerns eligibility for significant support.

Response to Question 4: factors increasing the likelihood a decision affects rights or interests

The governing test is whether a decision could reasonably be expected to significantly affect rights or interests. The Issues Paper adopts the established freedom-of-information reading of "substantial" as something real or of substance, not insubstantial or nominal. On that footing, the factors below go to the

severity of an effect that is already at the threshold, rather than acting as independent triggers that pull routine decisions into scope.

As a starting point, we encourage the OAIC to set the threshold through a two-tier approach. The first tier is a set of clearly defined categories of decision that meet the "significantly affects" threshold, rather than a purely principles-based test applied case by case. Defined categories are easier to apply, let an entity see quickly when the obligation is engaged, and line up with comparable overseas frameworks. The Californian regime, for example, works from categories framed around decisions that result in access to, or the provision or denial of, services such as financial or lending services, housing, education, employment and healthcare.[2] Drawing on settled international categories would also reduce the compliance load for entities that operate across jurisdictions.

How the categories are defined matters more than whether they are conclusive. They should be drawn around the significance of the decision, that is, decisions that grant or refuse access to a significant service, not around a whole sector or activity. Defined that way, a financial-services category captures decisions that approve or decline credit or insurance cover, while leaving out minor or administrative decisions, such as a small change to a credit limit, that happen to be made by a financial firm.

We therefore support categories that are conclusive but narrowly drawn, together with the high threshold described below for anything outside them. If the OAIC instead defines the categories broadly by sector, we would support treating them as a rebuttable presumption, so that an entity can show that a particular in-category decision does not in fact significantly affect the individual.

The second tier is the residual test. For decisions outside the defined categories, the bar should be set high, and the case for significance should be exceptional and clear on the facts. This gives entities a firm starting point while leaving room for genuine edge cases, without opening up broad uncertainty. The factors below are relevant mainly to that residual assessment and to the severity of effects within the categories.

- **Financial outcomes (importance: 4).** Decisions with material financial consequences for a person can be significant, and the Explanatory Memorandum gives a life insurance contract as an example. We suggest a materiality qualification, so that trivial financial effects are not treated as significant.
- **Vulnerable persons (importance: 4).** AFIA members take the protection of vulnerable consumers seriously, and vulnerability is plainly relevant to how significantly a decision may affect a person. For this transparency obligation, it is best applied through the statutory words "could reasonably

[2] California Privacy Protection Agency, California Consumer Privacy Act Regulations on Automated Decisionmaking Technology (adopted September 2025). A "significant decision" is defined as one resulting in the provision or denial of financial or lending services, housing, education enrolment or opportunities, employment, or healthcare services.

be expected to," which point to the kind of decision and the cohort it ordinarily affects, rather than to a duty to anticipate the circumstances of every individual.

- Sensitive information (importance: 3). The use of sensitive information goes to the severity of an effect where the decision is already significant, rather than marking a decision as significant on its own.
- Intrusive practices (importance: 2). This factor concerns the collection and handling of information, which APP 3 and APP 5 address, not whether the resulting decision significantly affects rights or interests. It should not be read into this limb.

We suggest two further factors to keep the assessment in bounds. One is whether the decision is reversible, since a decision that can readily be undone is less likely to be significant. The other is whether it is final, since preliminary or interim steps that do not settle an outcome are less likely to qualify, consistent with the accepted view that a decision is generally final and operative.

On differential pricing, the Explanatory Memorandum says only that it may be significant. In our view it should count as significant only where the price is set so high as to effectively bar a person from significant goods or services. Routine, loyalty-based and risk-based pricing should not be treated as crossing the threshold. We return to this at Questions 8 and 9.

Response to Question 5: classes of person considered vulnerable

AFIA recognises that decisions may have a greater effect on some individuals, and that children and people with impaired decision-making capacity warrant particular regard. We accept these as recognised classes for the purposes of the assessment.

AFIA members are firmly committed to protecting consumers experiencing vulnerability, and nothing in this submission seeks to narrow that protection. Our point is about how this particular obligation can work. Because it is discharged through a privacy policy that is written and published before any personal information is collected, it cannot sensibly turn on an individualised, point-in-time assessment of each person's vulnerability. The obligation is better framed around the kinds of decisions an entity makes and the cohorts they ordinarily affect, which an entity can identify in advance, than around the circumstances of a particular individual that will often be unknown at that stage. This fits the "could reasonably be expected to" standard and gives entities the predictability they need to work out which decisions are in scope.

Vulnerability is also assessed at a point in time, and it is often hard to identify even with genuine effort. A person seeking credit may, for instance, deny being vulnerable in order to obtain the credit, and disclose fuller or more accurate information only after it has been obtained. This points to a real difficulty in identifying and responding to vulnerability, and to the competing pressures on people experiencing it, who may fear discrimination or a worse outcome if they disclose certain details.

For the same reason, transient or context-dependent circumstances are, for this obligation, better addressed through the regimes designed for them than through a privacy-policy disclosure. Temporary financial difficulty, digital literacy, English proficiency and geographic location are examples. The interests of these consumers plainly matter, and they are protected by the hardship provisions of the National Consumer Credit Protection Act 2009 (Cth), ASIC's expectations on consumers experiencing vulnerability, the relevant industry codes and the AFCA scheme. A privacy-policy disclosure does not itself assist a person in those circumstances, and reading the obligation to require individualised assessment would duplicate those regimes without adding protection.

Response to Question 6: meaning of "significant service or support"

"Significant service or support" in APP 1.9(d)(iii) should be read in light of the examples around it. The Explanatory Memorandum points to access to healthcare, and the neighbouring examples concern statutory benefits and contractual rights. The word "support" suggests something essential or social in nature. Read that way, the limb is aimed at services whose denial materially affects a person's ability to meet basic needs or take part in everyday life, such as healthcare, essential utilities, basic transaction banking, housing and education.

This does not leave a gap for significant commercial decisions. Where a credit decision is genuinely significant, it can still engage APP 1.9(d)(ii), which covers a decision affecting rights under a contract, agreement or arrangement. Reading this limb narrowly therefore avoids double counting and uncontrolled expansion; it does not put significant decisions beyond the obligation.

Significance is also better judged by reference to denial of access to a category of service than to a refusal by one provider. The Explanatory Memorandum's examples, such as statutory benefits, healthcare and admission to a country, are typically sole-provider situations where a refusal means real exclusion. Whether alternative providers are genuinely available in practice is, in our view, relevant to whether a decision significantly affects access. We accept that for some individuals the practical alternatives may be limited.

Applying the importance scale to the listed categories, we would rate access to healthcare, essential utilities, basic banking and education at 5; access to telecommunications at 4; physical assistance and in-home services at 4; and financial assistance at 3. Within financial assistance, essential financial services and support may be significant, while discretionary commercial products are not significant in themselves. We again suggest a materiality qualification within any financial category, so that a minor change to a credit limit, for example, is not treated as significant.

To be clear, AFIA does not say that access to credit can never be significant. Refusing essential credit may significantly affect a person. Our point is narrower: the significant service or support limb should be confined to essential services, with other significant decisions dealt with under the limbs designed for them.

Response to Question 7: other frameworks for considering "rights" and "interests"

We would encourage the OAIC to be careful in drawing on the broad idea of "interests" found in administrative law. The procedural fairness case law grew up around the exercise of public power, where natural justice attaches to government decision-making. Its wide list of interests is calibrated to that setting and does not, in our view, carry over neatly to a private-sector transparency obligation. The statutory words "significantly affect," read with the concrete examples in the Explanatory Memorandum, are the safer guide.

Where the OAIC looks to comparable overseas frameworks, the threshold-limiting features are worth attention. Article 22 of the GDPR, for example, applies only to decisions producing legal or similarly significant effects, a demanding test. Parliament enacted the Australian obligation with these models in view and chose a transparency obligation rather than the GDPR's substantive rights. It would be incongruous to read the trigger for the Australian obligation more broadly than the trigger for the more extensive European regime, and that deliberate choice is a reason to read the trigger at least as narrowly, not to expand it through guidance.

We would also align the guidance with the sector frameworks our members already work under, and allow compliance with APP 1.7 to 1.9 to be met through existing sectoral disclosures where they cover the same ground, which would reduce duplication. The risk-tiered approach in the EU AI Act is a useful model for a proportionate reading, one that concentrates disclosure on genuinely high-impact decisions.

Response to Question 8: differential pricing

In our view the inflated price of the book in the scenario would not significantly affect Marco's interests. A book is a discretionary consumer product, different in kind from the financial products and healthcare services the Issues Paper treats as clearly significant. Differential pricing should count as significant only where the price is set so high as to effectively bar a person from significant goods or services. Being unable to buy one discretionary product, for which alternatives exist, does not meet that description.

On the amount at which differential pricing becomes significant, a fixed percentage is not a sound test. The same percentage may be trivial on a low-value discretionary purchase and material on an essential service, so the size of the differential, on its own, is not a reliable measure. Significance should instead be judged by the nature of the product or service and the real effect on the person's access to it. If a threshold is adopted at all, it should be set high and framed around a material impairment of access to significant goods or services, not as a percentage of price.

Response to Question 9: importance of factors in differential pricing

On the scale of 1 (not at all important) to 6 (very important):

- **The significance of the product or service being purchased, factor (b): 6.** This should be the primary, gating consideration. If significance is judged by the product or service, differential pricing engages the obligation only for genuinely significant goods or services, which is consistent with the Explanatory Memorandum.

- **The dollar amount of the differential, factor (a): 2.** This matters only as a measure of severity once a significant product or service is in play, not as a trigger in its own right. Making the size of the differential the entry point would draw all personalised or dynamic pricing of any product into scope.

It is important to separate risk-based pricing from the wealth-based pricing in the scenario. Risk-based pricing is basic to how credit and insurance work, with interest rates and premiums reflecting assessed risk and cost. The pricing in the scenario is different: it reflects inferred wealth, price elasticity or willingness to pay, and raises a fairness concern that has nothing to do with cost or risk. We would also caution against framing risk-based pricing as restricting access to financial products, since pricing by reference to risk is part of how those products are provided at all.

The guidance should not be read to treat legitimate, cost- or risk-reflective individual pricing as differential pricing that significantly affects interests. Concerns about pricing based on inferred wealth are in any case better dealt with under consumer protection law, including the unconscionable conduct provisions, than under a transparency obligation met through a privacy policy.

We also note the commercial-in-confidence character of the factors and models that drive risk-based pricing. These are multi-variate models used to price risk at the level of the individual applicant, and they form part of the core intellectual property of the industry. Where risk-based pricing engages the obligation at all, the disclosure required is of the kind of decision and the kinds of personal information used, for example that the entity uses automated, risk-based pricing models. The specific factors, weightings and use cases are commercial-in-confidence and fall outside APP 1.7. We encourage the OAIC to confirm that disclosure at this level discharges the obligation, and that entities are not expected to reveal the inner workings of their pricing models.

Response to Question 10: whether non-receipt of the advertisement is a "decision"

AFIA accepts at the outset that the conduct described, prioritising an advertisement by reference to gender, is a serious matter. It is properly dealt with under anti-discrimination law, which the Issues Paper identifies as working alongside this obligation and which provides effective remedies for the harm.

On the specific question, the non-receipt of the advertisement should not be treated as a "decision" for the purposes of APP 1.9. We make three points.

First, the algorithmic prioritisation of an advertisement is a ranking or promotion function, not a decision that determines the individual's position. On the accepted view that a decision is generally final and operative, Rafqa was not assessed and refused. She was simply not shown one advertisement among many, and not being shown an advertisement is not the same as the advertisement being unavailable to her.

Second, the extension in APP 1.9(a) to refusing or failing to make a decision assumes there was a decision to be made, a matter put to a decision-maker for determination. It does not reach the non-selection that is inherent in any ranking or recommendation system, where nothing about the individual was before the entity to decide.

Third, treating the non-surfacing of content as a decision would reach extraordinarily far. Every personalised feed, search ranking and recommendation that did not surface particular content to a particular person would potentially be a decision. We do not think the obligation was intended to operate that way.

This reading does not put the underlying conduct beyond regulation. It places the remedy in the framework built for it. The same analysis applies to the targeted marketing of financial products, and we would be concerned by any reading that treated the non-receipt of marketing as a decision within scope.

Response to Question 11: scenarios relevant to "arranged for"

AFIA's members often procure ADM-enabled products and services from third parties, so the meaning of "arranged for" matters a great deal in practice, and several scenarios would benefit from guidance.

As a starting point, "arranged for" should be understood as a question of responsibility for the relevant ADM, not as the source of an ongoing duty to investigate and monitor third-party systems. The obligation is to disclose, in a privacy policy, the kinds of personal information used, and the kinds of decisions made. It is met by reasonable, good-faith disclosure based on the information reasonably available to the arranging entity. That fits the exclusion of commercial-in-confidence information from APP 1.7, since vendors do not usually reveal the inner workings of their systems.

The following scenarios warrant guidance, and we indicate the approach we consider appropriate.

- **Off-the-shelf and software-as-a-service products with embedded ADM that the entity does not configure, train or direct.** Mere use of such a product does not, on its own, amount to arranging for the ADM. Responsibility sits more naturally with the provider that designed the decision logic.
- **Multi-party arrangements, for example a lender receiving applications through a broker or aggregator that uses a third-party scoring platform.** The obligation should fall on the single entity closest to, and responsible for, the decision affecting the individual, so that several entities are not all disclosing the same thing.
- **Shared industry utilities and inputs, including credit reporting.** An entity that uses a credit reporting body's score as an input to its own decision is not arranging for that body's scoring. It discloses its own decision-making that uses the score, and the reporting body is responsible for its own ADM.

- Incidental staff use of general-purpose tools. "Arranged for" should require the entity to direct the use of the tool for the relevant decision, rather than catching incidental use of general productivity or generative tools.

To be clear, where an entity genuinely arranges for a third party to make or assist a significant decision about its customers, it is responsible for the corresponding disclosure, and procurement does not shift that accountability. Our concern is only that "arranged for" should not be read as a continuing monitoring or assurance obligation over third parties. The statute does not impose one, and it would carry a cost out of proportion to the high-level disclosure the obligation actually calls for.

Response to Question 12: whether anything additional should be disclosed

AFIA supports the OAIC's aim that disclosures be meaningful and accessible, and we agree they should be in plain language, organised sensibly, and tailored so they do not overwhelm the reader. These points reflect the existing requirement in APP 1.3 that a privacy policy be clearly expressed. We do not think anything further should be required by way of disclosure content beyond what APP 1.8 already specifies. We do have concerns about two of the framings proposed.

First, we would ask the OAIC to reconsider the proposal that disclosures be framed so as to allow the information and the decision to be challenged or contested. As enacted, this is a transparency obligation. It confers no right to contest a decision, and the Issues Paper itself draws that contrast with the GDPR and the WA regime. A privacy policy describes information handling at the level of kinds; it is not the place to provide for the contestability of individual decisions. Building a contestability framing into the guidance would, in effect, add something the legislation does not contain, and we suggest it be removed.

We would go further and ask for positive guidance on the point. A failure to make, or to fully make, an ADM disclosure should not of itself give a person a right to have a decision set aside or remade, or otherwise invalidate the decision. The consequences of non-compliance properly lie with the regulator, including its ability to investigate and seek penalties, not in the contestability of the underlying decision.

This matters in practice because compliance is often tested through external dispute resolution, where an expansive reading of disclosure duties can lead to broad remedies. Without clear guidance, a shortfall in ADM disclosure could become a gateway to disputes about the merits of decisions, including credit decisions that external dispute resolution schemes presently place outside their jurisdiction. The guidance should make clear that the transparency obligation and the correctness of a decision are separate questions.

Second, and for the same reason, the proposal that disclosures be structured to let consumers request further information should be put as optional good practice, not as an expectation. An information-on-request mechanism exists in other regimes, such as the WA regime, but it is not part of the Australian obligation.

Two further points. The disclosure required by APP 1.8 is of the kinds of personal information and the kinds of decisions. It is categorical and high-level, as both the DTA standard, which treats transparency statements as only a high-level overview, and the commercial-in-confidence exclusion confirm. The guidance should make this clear, rather than push entities toward granular, system-by-system disclosure.

The OAIC's own evidence supports concise disclosure. The ICO recruitment report referred to in the Issues Paper recommends information in bite-sized pieces, warns against overly complex or legalistic explanations, and stresses checking that people actually understand. Concise, plain, categorical disclosure therefore serves the very purpose of the obligation, and we encourage the OAIC to frame the guidance that way.

Additional matter: automated systems for fraud, anti-money laundering and financial crime prevention

One category of automated system needs specific treatment in the guidance: systems used to detect and prevent fraud, money laundering, terrorism financing and other financial crime. These systems often make or assist decisions that affect individuals, such as holding or declining a transaction or restricting an account, so they may engage the obligation. Disclosing how they work, though, raises a separate public-interest concern. We make two related points.

First, the high-level nature of the obligation already deals with much of this. Because APP 1.8 calls for disclosure of the kinds of decisions and the kinds of personal information used, an entity can meet the obligation by describing these systems in general terms, for instance that it uses automated systems to detect and prevent fraud and financial crime, without setting out operational detail that would help someone evade them. The guidance should confirm that disclosure at this level is enough.

Second, and more importantly, the guidance should recognise an exception, or at least a minimum-disclosure approach, where disclosure would prejudice the prevention or detection of fraud or financial crime or would otherwise compromise consumer protection or operational security. Even acknowledging that such systems exist, or describing them in general terms, can in some circumstances give those trying to evade them enough to undermine their effectiveness. This fits a purposive reading of the Privacy Act under section 15AA of the Acts Interpretation Act 1901 (Cth), having regard to the Act's objects. It also fits the way related information is treated elsewhere, including the secrecy and tipping-off provisions of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), which restrict disclosure of related matters, and the law-enforcement and security exceptions recognised in freedom-of-information and comparable privacy regimes.

It would be odd for a transparency obligation to require, or to be read as encouraging, disclosure that other Commonwealth law restricts or that would defeat the public interest those laws protect. The exception should be drawn widely enough to cover not only fraud and anti-money laundering systems, but similar systems used to detect or prevent other financial misconduct.

CLOSING COMMENTS

As a general point, offered constructively, we suggest that future consultation papers and the guidance be made as accessible as possible for readers. Clearer and more consistent structure would help, including consistent numbering of the consultation questions. We also encourage the OAIC, in its examples and framing, to keep illustrations neutral and closely tied to the legal test, since examples that carry an implicit value judgment can introduce ambiguity in an already complex area.

Should you wish to discuss our submission or require additional information, please contact [redacted]

Yours sincerely

[redacted]

[redacted] Policy and Public Affairs