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

Re: Automated Decision-Making Transparency Obligation (APP 1) Issues Paper

Salesforce is pleased to provide this submission in relation to the Issues Paper.

In doing so, Salesforce recommends before evaluating an ADM system, the manual decision making process be documented from a few perspectives:

1. Quality and accuracy
2. Timeliness and its impact on procedural fairness
3. Standards and competencies expected of manual decision makers

Meaning of computer program and ADM obligation

The OAIC's guidance should remain technology-neutral and functional, focusing on the *nature of the output* rather than the specific code architecture used to achieve it. The boundary between a traditional computer program (e.g., an automated formula evaluating credit scores based on explicit if/then thresholds) and an AI/machine learning engine (e.g., a predictive model determining a service-delivery risk profile) is highly fluid. Enterprise software platforms frequently fuse both methods into a single customer or citizen workflow.

Furthermore, enterprises routinely use a broad range of software tools and products across ordinary business operations. These may include productivity, workflow management, cybersecurity, data analytics and customer relationship management. While such products would fall within the broad scope of "computer programs," they are not necessarily connected to the types of consequential decision-making processes that the ADM transparency obligation was intended to address.

AI functionalities that assist with drafting, coding, translation, or research are typically deployed to support internal operational efficiency and user productivity rather than to make materially important decisions affecting individuals.

Recommendation: The Guidance should provide clarity that the use of software, automation, or AI within a workflow (irrespective of whether there is a human in the loop or not) should not automatically trigger the ADM transparency obligation, and should relate specifically to decision making impacting individuals.

Substantially and directly related to making a decision

The Issues Paper currently states that "Substantially" means where it is a key factor in facilitating the human's decision making, whereas "directly" means where the thing has a direct connection with making the

Decision. However, "substantially" remains broad in its scope. Enterprise software helps users prioritise, organise relevant information , and may assist or recommend a course of action to a decision maker, including where the human decision maker has the authority to override and reject a recommended path. The role of human control and oversight should therefore be highly relevant in determining whether "substantially" is applied.

For example, where a financial services business uses a cloud-based AI platform to deploy an agentic AI system to assess loan eligibility, the business bears the disclosure obligation; the platform provider supplied a general-purpose capability it did not design for that purpose and has no visibility into Commercial-in-confidence protections, how the system has been configured, or the decisions it is being used to make.

Recommendation: The Guidance should clarify that 'substantially' means scenarios where the ADM tool completely replaces human-decision making (without human intervention). This is consistent with prevailing global privacy standards in many jurisdictions, including in application of the UK GDPR by the UK ICO and of the GDPR by several EU data protection authorities. The Guidance should further clarify that functions that organise, prioritise, or present data which assist in making a decision, should not be considered 'substantially' related to making a decision.

Meaning of "Significantly Affect Rights or Interests"

The Guidance should include a comprehensive list of decisions that "could be reasonably expected to significantly alter the rights or interests of an individual" under APP 1.7(b). Specifically, guidance should list decisions like those resulting in the provision or denial of financial or lending services, housing, insurance, education enrolment or opportunity, criminal justice, employment opportunities, health care

services or access to essential goods or services. Creating a clear list will help companies better comply with this obligation.

Meaning of "Making a Decision"

The Issues Paper refers to the definition of "decision" in Australia's domestic legislation, notably in the Administrative Review Tribunal Act 2024 (ART Act). Under Section 9 of the ART framework (and broader administrative law), "making a decision" is interpreted expansively. It includes:

- Doing a thing.
- Refusing or failing to make a decision.
- Imposing a condition or restriction.

Salesforce is of the view that the guidance should explicitly align its definition of ADM with these administrative precedents. The guidance should also make it clear that the relevant question is who makes the decision and not just what constitutes a decision. Where an APP entity deploys and directs an automated process, it is that entity and not the underlying technology provider that has 'made' the decision.

Meaning of "Arranged For"

The phrase "arranged for" must distinguish between the data controller that directs the decision-making logic and the data processor. The APP entity collecting the data retains full control over *how* the system is deployed and *what* parameters dictate individual outcomes. Accordingly, the regulatory guidance should clarify that the entity facing the citizen or consumer holds primary statutory responsibility for ADM disclosures under APP 1, while enterprise software providers act as technical enablers by providing robust audit and explainability capabilities.

The Guidance should expressly exclude platform providers from the scope of 'arranged for' where the vendor does not control the decision logic, the affected individuals or the use case. A safe harbour should be available for processors / vendors that supply configurable platforms where all decision logic is determined by the deploying controller.

Recommendation: The Guidance should clarify that the entity which has "arranged for" the use of a computer program is the entity that determines the purpose, means and use of personal information within the relevant ADM process and makes the relevant decisions; and that platform or technology providers supplying general purpose capabilities do not satisfy this threshold .

Extent of Disclosure

Salesforce agrees with the Issues Paper that the obligation should strike a balance between providing enough meaningful information to understand ADM, and excluding commercial-in-confidence information about ADM systems, such as source code, model weights, proprietary algorithms, training datasets and other similarly sensitive information. Commercial-in-confidence protections should be clearly scoped so disclosure is meaningful without revealing proprietary system design.

Additionally, disclosure obligations should be calibrated to degree of control: only entities with meaningful control over the automated process should bear disclosure obligations.

Thank you for the opportunity to comment on this Issues Paper.

Yours sincerely

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Vice President, Government Affairs