AUSTRALIAN
RETAIL
CREDIT
ASSOCIATION

28 October 2022

Financial System Division
The Treasury

By email only:

Dear Madam/Sir,

ARCA FEEDBACK – AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION INDUSTRY FUNDING MODEL (IFM) REVIEW

Thank you for the opportunity to provide feedback to the *"Australian Securities and Investments Commission Industry Funding Model Review Discussion paper September 2022*" (**the Discussion Paper**).

ARCA

By way of background, ARCA is the peak industry association for businesses using consumer information for risk and credit management. Our Members include Australia's leading banks, credit unions, finance companies, fintechs, and credit reporting bodies. Collectively, ARCA's Members account for well over 95% of all consumer lending in Australia.

ARCA's feedback

Whilst we note that the Discussion Paper canvasses a broad range of technical and non-technical considerations relevant to the operation and performance of the IFM, ARCA's feedback is limited in scope and is based largely upon one of the fundamental principles which is described as underpinning the IFM: That is, the principle that when an organisation creates the demand for a government activity, they should generally be charged for it.

As noted in the Discussion Paper, if the cost of any aspect of ASIC's regulatory activity is not recovered from industry, it would necessarily be funded by the Commonwealth budget and therefore by general taxpayers. It is observed in the Discussion Paper that this situation would present concerns about equity and fairness and would not be aligned with the Government's priority for responsible budget repair.

Debt management firms

Against this backdrop, we note that in terms of the organisations which are required to contribute to the IFM, ASIC apportions its regulatory costs across its entire regulated population, which is divided into 52 sub-sectors (as at 2021-22). These sub-sectors are set out in both the Discussion Paper at *Appendix D: Catalogue of sub-sector definitions, formulas and metrics* and at *Appendix F – ASIC IFM Data*.

Relevantly, we note that at Appendix D and Appendix F, there is no reference to a sub-sector which incorporates debt management firms which hold an Australian Credit Licence (**ACL**). The only reference to sub-sectors in which the relevant entities hold an ACL, are those entities which fall within the following definitions:

- Credit providers: An entity which holds an ACL authorising it to engage in credit activities as a credit provider,

- Small and medium amount credit providers: An entity which holds an ACL and provides credit under a small amount credit contract or a medium amount credit contract, and

- Credit Intermediaries: An entity that holds an ACL authorising it to engage in credit activities other than as a credit provider.

Since 1 July 2021 (subject to transitional arrangements) providers of debt management services have been required to hold an ACL, with an authorisation that covers debt management services (debt management authorisation).

It is unclear from the information contained within the Discussion Paper, if and how, ASIC apportions its regulatory costs against those entities which hold an ACL and which provide debt management services. We are concerned that the omission of these entities from the list of sub-sectors against which ASIC's regulatory costs are met, means that other sub-sectors are being required to fund the costs associated with debt management firms. Such an outcome would go against the stated fundamental principle of the IFM, which is that the organisation which creates the need for Government activity, should meet the costs of this activity.

As noted above and in the Discussion Paper, an apportionment of costs which gives rise to concerns about equity and fairness is not in line with the Government's priorities. On this basis, we believe that the specified sub-sector list should be amended, so that a specific category is incorporated to reflect debt management firms which hold an ACL and which are authorised to provide debt management services.

If you have any questions or comments in relation to this feedback please contact me via email or phone.

Yours sincerely,

Mary Vancea
General Manager – Legal & Policy