AUSTRALIAN
RETAIL
CREDIT
ASSOCIATION

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Treasury
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Sent via email: creditreforms@treasury.gov.au

Australian Retail Credit Association (ARCA) submission: The National Consumer Credit Protection Amendment (Financial Sector Reform) Regulations *2023* (the Regulations)

Thank you for the opportunity to provide our submission in relation to the Regulations.

ARCA

ARCA is the peak industry association for businesses using information for risk and credit management. Our Members include Australia's leading banks, credit unions, finance companies, fintechs and credit reporting bodies and, through our Associate Members, many other types of related businesses providing services to the industry. Collectively, ARCA's Members account for well over 95% of all consumer lending in Australia.

ARCA's previous submission

ARCA has previously provided a submission dated 21 February 2020, addressed to the Senate Economics Committee and which related to the National Consumer Credit Protection Amendment (Small Amount Credit Contract and Consumer Lease Reforms) Bill 2019 (No. 2) – Senate Economics Committee Inquiry (SACC & Consumer Lease Reforms Inquiry).

We note that this previous submission is relevant to a number of provisions in the Regulations, as well as the stated intention and purpose of the Regulations.

On this basis, a copy of our previous submission has been provided with this correspondence.

ARCA's submission – the Regulations

ARCA continues to support regulatory measures and reform which strengthen consumer protections for vulnerable consumers and which reduce the risk of individuals entering into Small Amount Credit Contracts (SACCs) or consumer leases which consumers cannot afford or which can only be afforded with substantial hardship.

We consider that a number of the measures set out within the Regulations support these outcomes however, we believe that the likelihood of the Regulations achieving these goals could be strengthened with the greater utilisation of the credit reporting system, including the use and disclosure of Comprehensive Credit Reporting (CCR) data.

CCR data is an important and valuable tool which can support the decision-making of SACC, consumer lease providers and credit assistance providers, as it provides visibility in relation to a consumer's overall credit position as well as providing information about repayments (where this data is reported).

We have set out below in further detail, how the utilisation of the credit reporting system could strengthen the consumer protections and benefits which are intended to flow from the introduction of the Regulations.

1. Utilising CCR data can assist in verifying a consumer's financial situation

Regulation 28HB of the Regulations amends the National Consumer Credit Protection Regulations 2010, so as to insert an obligation upon a licensee to:

- Ascertain whether the consumer is receiving a payment under the Social Security Act 1991 (social security payment) and, if so:
- obtain the documents prescribed within Regulation 28HB(7)(a) and (b), and
- consider the information contained within the prescribed documents in order to verify the consumer's financial situation.

Currently, the specified documentation referred to at Regulation 28HB(7) includes an income statement and a deduction statement issued by Services Australia within a specified period of time.

ARCA considers that where a consumer has been identified by a licensee as receiving one or more social security payments, the consideration by the licensee of information contained within the consumer's credit report (in addition to the information contained within the documents referred to above), would further reduce the potential risk of the consumer being offered or entering into credit which is not appropriate or which the consumer may otherwise not be able to afford.

This is because by having reference to the credit information reported in relation to the individual, the licensee will be able to have visibility over any other credit facilities held by that consumer (where this information has been reported).

Where the consumer is in receipt of social security payments, we consider that imposing additional and further verification requirements upon licensees is appropriate and warranted given the potential harm which may arise as a result of even relatively small amounts of credit, being lent inappropriately.

2. Utilising CCR data can assist with assessing total repayment obligations

Regulations 28LCA and 28LCB set out the requirements which a licensee must comply with when determining the amount of 'required repayments' that would be required under a SACC (for the purposes of subsection 133CC(1) of the National Consumer Credit Protection Act 2009 (the Act)) or a consumer lease for household goods (for the purposes of subsection 156B(1) of the Act).

Relevantly, both regulations require a determination that the repayment amount that would be required during a repayment period under such a contract or lease not exceed 10% of the available income the consumer is reasonably expected to receive during the repayment period.

In addition to considering the consumer's required repayments under the proposed SACC or consumer lease for household goods, we believe that having reference to the information contained within the consumer's credit report could assist a SACC or lease provider to make an even more informed assessment of the consumer's ability to meet their total repayment obligations (should the additional credit be provided). This is because by having reference to information contained within the consumer's credit report, this will provide visibility of the consumer's other credit facilities (where the information is reported) enabling a more holistic assessment of the consumer's total repayment obligations.

3. The reporting of CCR data in relation to SACC and leases generally will assist in reducing the risk of consumer harm arising as a result of inappropriate lending and provides consumers and industry with a range of benefits

As noted in ARCA's previous submission of 21 February 2020, CCR both protects consumers from over-indebtedness and strengthens responsible lending practices. We therefore maintain that the SACC and consumer lease sector could benefit from greater utilisation of the credit reporting system, including the use and disclosure of CCR data to support its decision-making.

The disclosure of CCR data by this sector will, in many respects, promote positive payment behaviour by customers as it provides a record of repayments. This enables customers with SACCs and consumer leases to exhibit positive behaviour to bolster their creditworthiness and, where necessary and appropriate, seek access to credit facilities from more mainstream lenders on better terms.

Access to mainstream lenders will be more difficult if SACC and consumer lease users are less visible in the credit reporting system. There is also a risk that that higher risk and more vulnerable consumers may migrate to credit providers who have chosen not to participate in CCR.

We would therefore encourage the Government to consider further reforms to the SACC and consumer lease sector which will result in greater consumer protections as a result of the increased use and disclosure of CCR data for consumers. Such reforms could include those referred to above at sub-paragraphs 1 and 2.

If you have any questions about this submission, please feel free to contact me.

Yours sincerely,

Mary Vancea

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Australian Retail Credit Association